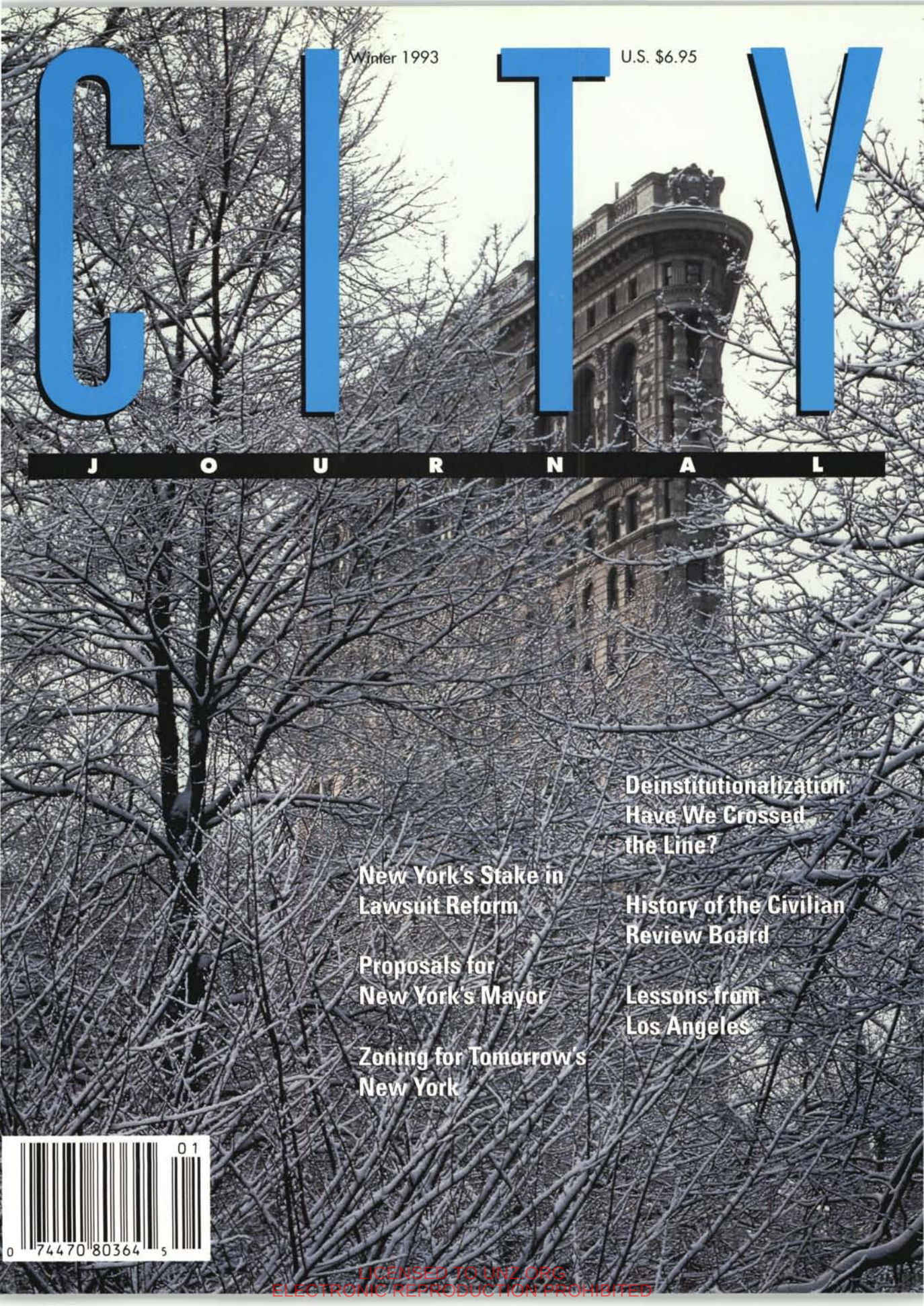

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The Legacy of New York City's Housing Policies

PETER D. SALINS AND GERARD C.S. MILDNER

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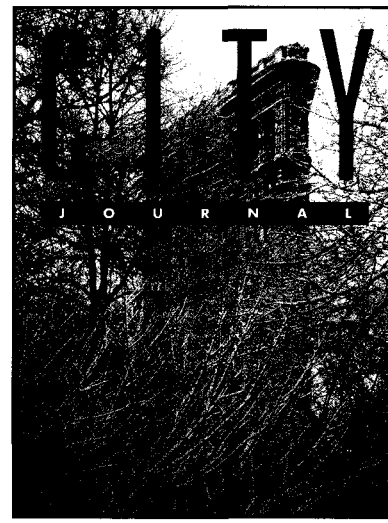
Readers may notice that this issue of the *City Journal* looks somewhat different.

We at the Manhattan Institute are determined to keep our magazine easily readable and as habit-forming as mere words can be. The main body of the magazine will remain what it has been: a menu of articles that will examine, interpret, and suggest remedies for the problems of New York and other cities.

But readers who move decorously from front to back instead of skipping around will find that the articles section is preceded by several new features. The first of these is the Forum, an edited presentation by a previous *City Journal* author, followed by an exchange with an audience of New York officials and opinion leaders who are invited to respond to his ideas. In this issue, economist Stephen Kagann discusses his Autumn 1992 article, "New York's Vanishing Supply Side," in which he argued that high local taxes have been the prime cause of New York's severe recession.

Following the Forum, a straight-arrow reader will come to the Précis, the *City Journal*'s variation on the standard book review. Each future issue of the magazine will give an author the opportunity to summarize the central ideas in his new book. All too often a book review reflects the reviewer's own ideas more accurately than it does the author's. The Précis whets the reader's appetite for a book while



allowing him to draw his own conclusions about the author's ideas.

This issue also introduces four new columns, by writers whose work is already familiar to *City Journal* readers. Stephen Kagann will discuss economic developments in New York or other cities under the title "Vital Signs." Richard Miniter's "Urban Ecology" column will cover environmental issues. George Kelling, a nationally recognized expert on policing whose cover story on reclaiming the subways appeared in our Winter 1991 issue, will write a column called "Thinking About Crime," and Senior Editor Fred Siegel will contribute a column on political ideas called "The Body Politic."

Six major articles are featured in this issue as well. Stephen Berger offers timely recommendations for the mayor on how to reform New York City's government. Heather Mac Donald writes about the social disaster that has resulted from the deinstitutionalization of the mentally ill. Peter Salins looks at the city's zoning ordinance, an enormously complex document that has created a chaotic and inefficient regulatory system. Walter Olson describes the immense financial burden placed on the city by liability lawsuits. Tamar Jacoby recounts the history of civilian review of police—an issue that divided the city in 1966 and is doing so again today. And Joel Kotkin, a New York native now living in Los Angeles, discusses the sturdy shoots of economic life that he finds growing beneath the sociological smog of Southern California.

The "At Issue" feature will present either an interview, a roundtable, or a discussion forum. In this issue, Peter Salins, coauthor of *Scarcity by Design: The Legacy of New York City's Housing Policies*, discusses his ideas and answers questions from an audience of distinguished New Yorkers.

"Ideas and Observations," the balance of the *City Journal*, will contain shorter pieces about urban culture. This section will include book reviews, essays, articles on the arts and architecture, and excerpts from published literary works which stand by themselves as vignettes of New York life and history. "New York Diarist" will offer commentary on current New York news and politics. Read it all in good health.

—*RS*

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NEW YORK'S VANISHING SUPPLY SIDE

Stephen Kagann's article "New York's Vanishing Supply Side," which appeared in the Autumn 1992 issue of the City Journal, *stirred more interest than virtually any other article about New York City published in the past few years, sparking discussion in the* Wall Street Journal, The Economist, Newsday, *and the* Forward. *Mr. Kagann, an economist with the New York City Council President's Office, discussed his view of the city's economy with city officials, opinion leaders, and journalists at a recent* City Journal *forum.*

STEPHEN KAGANN: As a teenager in the 1950s, I would walk the streets of Manhattan, reading the corporate names on the buildings and marveling that I could make a career in virtually any industry right here. New York was the unquestioned center of international business, finance, manufacturing, shipping, transportation, pharmaceuticals, merchandising, fashion, publishing, broadcasting, telecommunications, art, and culture. The city was a magnet for the ambitious, the bright, and the talented.

But in the 1960s the city's economy began to unravel. Manufacturing, which had employed 1.1 million people in the 1950s, began to leave town. The decline in industrial production was accompanied by a decline in rail transportation, shipping, and wholesaling. Yet no one seemed to notice. One reason was that the loss in manufacturing jobs was more than offset by an expansion in government employment. Government became an exciting new growth industry: From 1967 to 1975, 100,000 jobs were added to the city bureaucracy.

But beginning in 1969, the losses in the city's private sector turned into a rout: From 1969 to 1977, 550,000 private-sector jobs disappeared. The decline amounted to 17 percent of the job base. Yet during those same years, nationwide private employment swelled by nine million jobs, an increase of nearly 16 percent, despite two national recessions. Manufacturing led the city's decline, but there were also substantial job losses in construction, financial services, wholesale and retail trade, transportation, and public utilities.

Why did the business capital of the world undergo an economic collapse comparable to the Great Depression while the national economy prospered? I argue that the responsibility rested with Albany and city hall.

In the 1960s, city and state fiscal policies spun out of control. The combined burden of city and state taxes rose from 8.5 percent of gross city product in the 1950s to 12.4 percent by 1969. Even as the private sector was collapsing from 1969 to 1974, government employment continued to grow, and so did the city's tax rates. By 1977, at the worst point in the city's economy, the tax burden

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was 16.8 percent of gross city product. But even the annual ritual of raising taxes did not provide enough revenue to feed the voracious appetite of government. The city sold billions of dollars in bonds while dissembling about the use of the funds.

By 1974, however, investors regarded New York City as a bad risk and were no longer willing to buy its bonds. This created the fiscal crisis of 1974-77. Although the crisis led to a new tax increase, it also temporarily halted city spending. Fifty thousand city government jobs were eliminated virtually overnight, and some tax rates actually declined after 1977. Then, in 1978, the city economy began to expand, driven by the growth of financial services and, after the 1982 recession, the media sector. The flow of money into the city created a real estate boom, and by 1984 the city government was growing quickly again. By the end of the 1980s, city employment had expanded by nearly sixty thousand people. New real estate taxes were created and property taxes were raised, leaving the city's fiscal fortunes dependent on an extraordinarily speculative bubble.

Not many noticed that throughout the 1980s corporate headquarters and manufacturing, wholesaling, trucking, and shipping concerns continued to leave, or that retailing never recovered. The expansion of the 1980s had a narrow base and the stock market crash in 1987 signaled another downturn. Yet city government employment continued to rise for another three years, and so did taxes. Although the city's recession began months before the new administration took over in January 1990, the new mayor raised government employment levels during his first year—repeating the post-1969 pattern. A new fiscal crisis in October 1990 finally froze city employment levels, but to avoid cuts the administration piled on three major tax increases between July 1990 and July 1991. Albany raised taxes also. In 18 months, the combined city and state tax hikes increased the total tax burden on city residents by between $2.5 and $3 billion. The tax burden, which surpassed its 1977 record of 16.8 percent of gross city product in 1990, now stands at 17.8 percent. This figure compares with an average of 9.5 percent for the rest of the nation.

Imagine for a moment that there is a severe national recession in which employment levels have dropped by more than 10 percent. Further imagine that a federal administration proposes huge tax increases during this recession. With no debate, and with minimal press coverage, the tax hikes pass virtually without dissent. This would never happen in Washington—but it is how fiscal policy is made in New York City and State.

At the time the city's tax hikes were proposed, Zheng Gu and I produced a study for the City Comptroller's Office that examined how the city's private-sector employment is affected by the tax burden, inflation rate relative to the rest of the nation, quality of life, and national economic conditions.

The study showed that if the city raises taxes by $100 million during an expansion period, about 5,000 private-sector jobs will be lost. If, on the other hand, the city is in a 1970s-style recession, as it was in 1990 and 1991, every $100 million in new taxes will cause some 11,400 New Yorkers to lose their jobs in the private sector.

Our study was denounced by certain folks in the city government. Everyone knows, they said, that taxes are not a determinant of business location decisions, or certainly not an important one. But based on our model, we forecast in early 1991 that the tax increases of 1990 and 1991 would lead directly to the loss of between 250,000 and 260,000 jobs.

What actually happened? Since April 1989 the city's private sector has been collapsing even faster than in the 1970s. In little more than three years, the private sector has lost 360,000 jobs, a decline of about 12 percent. If we exclude private-sector industries that are largely supported by public tax revenues—health care and social services, both of which have been growing quickly—the job loss figure is even higher: more than 400,000, or between 15 and 16 percent.

Can we blame New York's job losses on the national economy? During this recession nationwide private-sector employment went down by 1.6 percent at most. Our losses are vastly disproportionate.

What about Reagan-Bush cuts in urban aid? In fact, cutbacks in federal spending for cities began under the Carter administration. It wasn't until 1990 and 1991, however, when city officials needed someone to blame for the local recession, that they noticed there had been cutbacks in aid to cities. In fact, during the 1980s, New York, unlike other cities, had continued to expand public-sector employment despite the federal cutbacks.

What about the communications revolution, which makes it easier for corporations to leave town? Other business capitals such as Tokyo and London have the same technology yet there is no impetus to move. In fact, Japanese government officials tell me they can't get people to leave Tokyo.

What is responsible for New York's massive economic failure? Simply put, a government whose employment level is far too high extracts a burden that makes it very costly to do business here. Only firms with very high profit margins

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can afford to remain in the city. Moreover, the large tax burden diminishes New Yorkers' standard of living by reducing after-tax income and increasing the cost of everything we buy.

By making it more difficult for businesses to stay, the city has increased the probability that any given citizen will join the ranks of the unemployed. Our government claims to represent the interests of the poor. But who is most likely to become unemployed? Among the hardest-hit industries are retailing and manufacturing. The marginal workers—immigrants, minorities, teenagers—are disproportionately represented in these industries and are losing jobs at a sickening pace. Teenage employment has nearly ceased to exist in New York and the end result is what you see out in the streets. It's a sad story.

DAVID RUBENSTEIN, City Office of Management and Budget: I think your model grossly misrepresents the city's tax burden. You rely on the gross city product, a statistic prepared by the State Comptroller's Office. But the Comptroller's Office acknowledges that its numbers underestimate the city's total production. Your use of this statistic, therefore, tends to overestimate the tax burden.

The way the tax burden is usually measured is as a percentage of personal income. When you use that measure, you'll find that the tax burden is not double the national average and that it has not been climbing that rapidly.

STEPHEN KAGANN: We considered measuring the tax burden as a percentage of personal income. We rejected that approach because personal income includes transfer payments such as welfare and Social Security. We were interested in measuring the burden of taxes on productive economic activity.

The State Comptroller's Office does say its gross city product figure is probably too low, but for statistical purposes the important thing is that it accurately reflects the changes from year to year.

I understand, by the way, that OMB has put out its own gross city product measure, and my friends in the City Comptroller's Office tell me it's too large.

MICHAEL BROOKS, Sanford C. Bernstein & Co.: I used to be with the State Comptroller's Office, and I helped prepare the gross city product figure. I agree with a lot of what you say, but I think you have a tendency to overstate the issue. Your article says that in New York City, state and local taxes consume 17.8 percent of the gross city product. For the rest of the nation, the tax burden is only 9.5 percent of gross product. But the State Comptroller's Office told you that gross city product is an excellent way to measure change over time but it is not an accurate measure of the economy at any particular point in time. It is erroneous, based on this measure, to compare the tax burden in New York City with the national tax burden at the same time.

STEPHEN KAGANN: Suppose my numbers do overstate the difference. Suppose New York's tax burden isn't 17.8 percent, but 16 or 16.5 percent. Our tax burden is still clearly out of line, enough to hurt us in the competition with other parts of the country.

There's another way to look at the tax burden: the relationship between city government employment and private-sector employment. During the 1950s, city government employment was about 9 percent of private-sector employment. In the mid-1970s, it peaked at 16 percent. City government employment is now around 17 percent of private employment. If city government employment is higher now, relative to its tax base, than it was in 1977, the money must come from higher taxes. This is a particularly important point given the cuts in federal aid during the Carter, Reagan, and Bush years. Less federal money means a larger proportion of city spending is paid for by state and local taxes.

THOMAS TISCH, FLF Associates: I have a question for David Rubenstein. Do I understand you to say that New York's city and state tax burden is not higher than elsewhere in the country?

DAVID RUBENSTEIN: State and local taxes are higher in New York than nationwide—there's no doubt about that. But that differential has probably remained about the same since 1980. I can back that up just by looking at the tax law. For example, the personal income tax rate is not as high as it was in 1983.

THOMAS TISCH: As a taxpayer in New York, I find that if you look at raw rates you're often tremendously misled. The income tax rates may not be as high, for example, but New York State disallows a significant number of itemized deductions. What Stephen Kagann has done is show the cumulative effect of the taxes we actually pay.

MITCHELL MOSS, New York University: Firms have been leaving New York for 150 years. They left long before our taxes were higher than others. This has been a long-standing pattern that has nothing to do with taxes, but rather with a desire for low-density housing, more space, better services, and, in many cases, old-fash-

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ioned racial prejudice.

New York has always let firms leave if they cannot afford the city's comparatively high costs. I don't care who leaves New York; I'm worried about who moves in. The source of New York City's success has always been that the city recreates itself periodically.

Manufacturing, for example, remains an important part of our economy, but no matter what we do to strengthen our manufacturing base, it will never be as big as in the old days. New York City lost its seaport decades ago when container ships made New Jersey a better location, but our airports have fifty thousand workers, far more than the seaport ever employed. Union Carbide's headquarters left the city because a bomb blew up the building. The next day the CEO said, "We're going to Connecticut." These are some of the reasons that businesses leave New York; it isn't just taxation.

STEPHEN KAGANN: I never said taxes were the only factor. But they are a very important factor. Many people want to deny that taxes make a difference at all.

My work does take into account the flow of businesses into as well as out of New York. The net number of private-sector jobs declined precipitously during the 1970s and has done so again—by 360,000—since April 1989.

The decline of New York's private sector over the past few decades runs counter to the city's history during the previous century. After the Civil War, during the period of greatest American industrialization, there was a surge, not of companies born in New York, but of companies that came here to make the city their headquarters, because New York was the headquarters city. Today, that trend has been reversed.

FRED SIEGEL, *City Journal*: I would add that New York missed the small-business revolution in the 1980s. There is no high-tech industry in New York, except companies that specialize in working for large corporations. Small software companies, for example, leave as fast as they start here.

DEREK JOHNSON, Deputy Manhattan Borough President: If you are right, Mr. Kagann, what solution do you proffer? I would like you to speak to quality-of-life issues because I'm not sure how we can cut spending, and therefore taxes, without harming the quality of life. Indeed, I think that quality-of-life issues may be as significant, if not more so, than the tax burden in driving businesses out of New York.

STEPHEN KAGANN: Some of my work has examined quality-of-life issues, and we have found that they do indeed affect the city's economy. And a lot of business people tell me, "Yeah, I hate the taxes, but I also hate walking the streets of New York."

It may seem obvious that if you raise taxes that means you're raising government services. But after being in city government for a couple of years, I don't see a correlation between what the government spends and the benefit to the people. If there were such a correlation, New York would be the cleanest, best educated, most decent, and most civilized city in the country—but it's not.

Yet all I've heard from those who insist that taxes don't matter is a defense of the status quo. I don't accept that. Is it written in stone that New York has to go downhill? I don't think so. If we fundamentally change the way we view government in this city, there may be hope for a recovery and a better quality of life. If not, the best we can hope for is stability at a low level or a decline in the rate of decline.

DAVID SUTTON, Manhattan Borough President's Office: I don't think that there are any "taxes don't matter" people in this room, and I really think this kind of polarization is unfortunate. The debate is really about the question of magnitude. It makes a large difference whether we're talking about 11,400 jobs per $100 million in city taxes or 4,700 or 2,000 or some other number. And these technical issues like whether you're using the right denominator really have an important effect on those outcomes.

STEPHEN KAGANN: One might debate my methodology, but I simply have not heard any public acknowledgment from city officials that taxes are crucially important. I would have been very happy to hear people question my methodology, but also say, "You may have a point there; what you say makes a certain amount of sense." Instead, they simply reject my conclusions out of hand.

The private reactions I've had to my work are quite revealing. People in city and state government occasionally tell me, "I really appreciate what you're doing and I'll comment on your paper, but don't give me any acknowledgment because I can't be associated with what you're doing." I get the same response from private-sector economists who deal with city government—they get really uptight about being associated with my work. But the response is quite different when I talk to people in the private sector who are not involved with the government. I tell them we have a model that shows New York's excessive tax burden leads to the loss of jobs, and people ask, "Where's the punch line? Isn't this obvious?" It's obvious everywhere except city hall and Albany. ■

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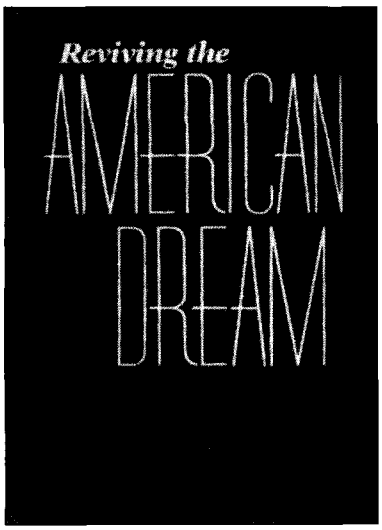
FEDERALISM: A NEW CONTEXT FOR DOMESTIC POLICY?

Alice M. Rivlin



There is probably no better way to clear out a cocktail party than to talk about federalism, the set of assumptions that go into ordering the relationships between the different layers—federal, state, and local—of American government. But boring though it may be, federalism is a topic as important as it is unavoidable. Federalism invariably shapes the issues of an era even as it is in turn reshaped by them. Like a marriage, a federal union is a relationship that must be continually renegotiated. The constitutional bargain of 1787, hammered out after long months of wrangling between advocates and opponents of a strong Federal Government, was renegotiated first in response to slavery and the Civil War, and again through Franklin Roosevelt's response to the Great Depression. Now new voices argue that competition in the global economy demands yet another reconstitution.

Among these voices is Alice Rivlin, founding director of the Congressional Budget Office, a self-described "fanatical, card-carrying middle-of-the-roader" and Bill Clinton's nominee as deputy director of the Office of Management and Budget. In Reviving the American Dream: The Economy, the States, and the Federal Government *(Brookings Institution), Rivlin calls for a fundamental redistribution of tasks between the federal and state governments.* —*Ed.*

The performance of the economy and the functioning of the political system are usually discussed by different people in separate books. One set of authors diagnoses the ills of the economy and offers policy prescriptions; another set focuses on the failings of politics or politicians and recommends reforms in the process. Both groups, acting on assumptions that date from the 1930s, seem to believe that the Federal Government is the only government that matters and that all new public policies must be made in Washington.

My book attempts to bring economic and political issues together and to reexamine the roles of the federal and state governments. My central theme is that government at both levels would function better—and the policies needed to energize the economy could be carried out more effectively—if a cleaner distinction were made between the responsibilities of the Federal Government and those of the states.

The blurring of state and federal roles contributes to cynicism about politics. Presidential campaign

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rhetoric, for example, often concerns issues over which presidents have little control: crime, drugs, education, child care, and industrial development. Candidates for federal office undermine their credibility by implying that these problems have national solutions and by refusing to address serious federal issues such as the budget deficit.

Until the 1930s, the powers of the Federal Government and those of the states were viewed as separate and distinct. But, first in the Depression and then in the 1960s, activists and reformers turned to Washington out of frustration with the way states and localities were performing. Washington responded, taking on a wide range of new responsibilities for social and economic policy.

The surge in federal activities had many positive results but also diffused responsibility and directed the energies of reformers toward Washington. The proliferation of federal programs, projects, offices, and agencies in so many parts of the country made the Federal Government increasingly unmanageable. It came to resemble a giant conglomerate that has acquired too many different kinds of businesses and can no longer coordinate or manage all its activities effectively from central headquarters.

As a result, the perception of superior federal competence in all areas of government has faded. Meanwhile, reforms have given states stronger governors: Colonial-era antagonisms toward a strong governorship were not overcome until the 1960s, when governors' terms in many states were extended from two to four years. The modernization of state government continued in other ways: Budget and planning offices were created for governors, state legislatures became more representative and professional, and a sophisticated civil service was developed at the state level.

In recent years, American business has undergone a revolution in response to foreign competition that has changed our ideas about what constitutes an effective organization. We now understand that successful companies have well-defined missions; they develop expertise in a set of closely related lines of business; they do what they do well and resist excursions into unrelated businesses where they do not have proven competence. In line with this thinking, some unwieldy conglomerates have dissolved into more manageable units.

Government must take its cue from the business revolution. In an age of global competition, the Federal Government and the states should divide the public tasks needed to ensure that the economy functions well. The Federal Government's priorities should be controlling the growth of health-care costs, ensuring that everyone has health insurance, and moving from a budget deficit to a surplus. States, meanwhile, should take primary responsibility for education and training, social services, housing, community development, and public infrastructure. And a new system of "common shared taxes"—either collected by the Federal Government and distributed to the states, or collected directly by a consortium of states—should be adopted to put state financing on a more secure and equal footing.

The idea of states sharing common taxes is a radical departure from the American tradition. In other federal systems, tax sharing is more typical. In Germany, for example, the central government collects most of the taxes and shares the proceeds with the Länder (states). Like federal grants, common shared taxes could be designed to improve the relative position of the least affluent states. Unlike federal grants, however, they would not impose federal rules and guidelines on local authorities or cause confusion about which level of government has responsibility for which programs.

Common shared taxes would have other benefits: They would simplify the tax system for businesses operating in more than one state. And under such a system states would no longer compete for business on the basis of taxes, but on the basis of a "productivity agenda" for improved local services and institutions, such as schools and infrastructure. These, in turn, will help the United States compete in the global economy.

Reviving the American dream in the face of burgeoning international challenges requires restoring the public's sense of control over government. Americans must break down the old hierarchies and replace them with new patterns of citizen and worker involvement. We can do this in part by sorting out the various functions of government, then dividing these responsibilities more clearly between the states and the national government. This approach can make government more responsive and accountable, revitalizing not only the government and the economy but our national spirit as well. ■

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CITY TAXES: WHERE TO START CUTTING

Stephen Kagann

New York City's singularly high tax burden is the greatest peril to its economy: As I pointed out in the Autumn 1992 issue of the City Journal, each $100 million in new taxes levied during a recession leads to the loss of some 11,400 private-sector jobs, as businesses cut back or leave the city to escape the growing tax burden.

Fortunately, this effect works in reverse as well. According to my projections, a $4 billion reduction in taxes over four years would generate enough economic activity to create 600,000 new private-sector jobs in six years—240,000 more than have been lost during the current recession. This growth would cause the city's revenues to reach a break-even point after four years. Even a less ambitious tax-cutting program could substantially improve the city's economy.

Which of the city's dozens of taxes cost the most jobs? Which would be the best ones to cut as part of an economic growth strategy? A City Comptroller's Office study I conducted with senior economist Zheng Gu ("Jobs on the Run: Corporate Headquarters, State and Local Taxes, and the Economy of New York City") helps answer these questions.

Our study examined the changes in the number of major corporate headquarters in New York City during the period 1956-91. Our sample included 650 companies: the five hundred largest industrial and the fifty largest transportation, merchandising, and utility companies listed in the *Fortune* directories. In 1956, 178 (or 27 percent) of these companies were headquartered in New York City. By 1991, the number had dwindled to 46 (or 7 percent).

We conducted a regression analysis to determine which variables were most important in influencing companies to move their headquarters out of the city. We found that a $1 billion increase in the overall tax burden leads, on average, to the loss of 0.8 corporate headquarters. (Each headquarters departure leads to the loss of an estimated 4,600 private-sector jobs, both from the corporation itself and from other companies that lose business because of the departure of the headquarters and its employees.) Other variables—the crime rate, inflation in the city relative to the nation, and nationwide economic growth—also have a measurable impact on the number of headquarters in New York. But the impact of taxes is large and unmistakable.

The most important finding of our study concerned the effects of two particular taxes: the personal income tax and the commercial rent tax. A $1 billion combined increase in these two taxes, we found, leads to the loss of an average of 5.4 headquarters. In other words, these two taxes are roughly seven times as important as others in driving large corporations from the city. One reason for this may be that

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the burden of these two taxes is unique to New York City, and therefore can be escaped by moving almost anywhere else.

The commercial rent tax adds 6 percent to the already high cost of office space in New York. Any company that spends more than $11,000 per year on rent ($15,700 in upper Manhattan or the outer boroughs) must pay this tax. No other city taxes commercial rents.

Likewise, New York is the only U.S. city to levy a progressive tax on personal income. (Washington, D.C., is an exception, but its residents pay no state taxes.) Some other cities have flat-rate income taxes, but only Detroit and Philadelphia—both of which have severe economic and fiscal problems—take 3 percent or more of their residents' income. New York City's top rate was 3.4 percent in June 1990, but the city has since raised the rate twice. It now stands at 4.46 percent. This, of course, is in addition to the state income tax, one of the highest in the country at 7.875 percent.

Not surprisingly, the corporate headquarters study found that among the most popular destinations for companies leaving New York are states with no personal income tax, state or local: Texas, Florida, and Connecticut, which had no income tax before 1991.

High corporate taxes are also cause for concern, though our study was unable to account for their effect because corporate profits, and the revenues from corporate taxes, vary widely from year to year. The state levies a 10.35 percent tax on corporate profits, but the rate is about 12.1 percent in the city and suburbs because of a surcharge that goes to the Metropolitan Transportation Authority. In addition, the city has its own corporate income tax of 8.85 percent—America's only municipal corporate income tax. Thus, a city-based corporation can expect to pay a total of at least 21 percent of its profits in taxes. By comparison, Connecticut's corporate tax rate, one of the highest in the country, is 13.8 percent, and is scheduled to drop to 11.5 percent in 1993. Moreover, unlike the state and federal governments, the city does not allow corporations to deduct as expenses any compensation paid to officers or major shareholders. Their income is taxed twice—first as corporate profits, then as personal income.

City officials have consistently denied that taxes are an important factor influencing businesses to leave the city. Yet the city's actions belie these denials. Central to its economic strategy has been the practice of offering targeted tax breaks to large companies to induce them to remain in the city. Most recently, Morgan Stanley received $40 million in concessions in exchange for a promise not to move to Stamford, Connecticut.

But while these breaks may keep a few big companies from leaving the city, such a defensive strategy cannot revitalize New York's economy in the long run. It does nothing to encourage new companies to start up in New York City rather than someplace else, or to prevent the departure of small businesses.

In fact, the city's regime of double-taxation provides small businesses with a special reason to leave. Taxing executive salaries twice hits small corporations hardest, since a higher proportion of their income goes to their owners. In addition, sole proprietors and partners in firms (known as "subchapter S corporations" for federal and state tax purposes) must pay an unincorporated business tax of 4 percent of their earnings in addition to the personal income tax.

Small business owners can escape the bulk of the city's personal income tax by living outside the city. Many eventually move their companies out as well, avoiding a long commute and the city's business taxes. The economic effect of individual small business departures is incremental, but no one can doubt that they add up, doing significant damage to the city's economy.

The Dinkins administration, in an effort to improve the city's business climate, has promised not to increase corporate income taxes for the next four years. This is largely a symbolic action, however, since the rates are already so high that increasing them would be politically impossible. What the city really needs is an aggressive tax-cutting program. Since the commercial rent tax and the personal income tax (which together raise close to $4 billion a year) have a demonstrably severe effect on the city's economy, they seem the likeliest candidates for reduction or elimination.

In the short term, this tax-reduction program would reduce the city's revenues, but by no more than $1.1 billion in a given year. To cushion itself against these revenue losses, the city would have to cut spending by a modest 3 to 4 percent. Such cuts might entail some pain, but far less in the long run than the continuing decline of the city's economy. ■

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GETTING THE LEAD OUT

Richard Miniter

When a sandblasting crew on the Williamsburg Bridge rained down potentially hazardous lead paint chips last June, it set off a city-wide scare.

In a separate incident in September, a boy who suffered from chronic asthma came home sick from Public School 3 in Greenwich Village. When his mother discovered that the school's renovation work involved sanding away old lead paint, concerned parents forced the Board of Education to close the school while the danger was assessed. Elsewhere, parents and lawmakers are calling for the demolition of P.S. 92 in Corona, Queens, because its paint contains lead, and an emergency cleanup was undertaken one weekend at P.S. 2 in Jackson Heights.

Lead was once widely used in plumbing and paint, but its use has been reduced since its hazards became known. In large quantities, lead can cause brain damage or death. In smaller amounts it poses a risk for children. Lead is not naturally flushed out of the body as most toxins are: It is absorbed in the bloodstream and can be stored in bones for years. Children are particularly vulnerable to its effects because their brains and nervous systems are still developing and because they have a propensity to put foreign objects, like dirt or paint chips, in their mouths. Adults, on the other hand, face virtually no risk from everyday exposure to lead.

The actual amount of lead in the environment has been steadily decreasing for decades. Lead has not been widely used in paint or in children's toys since the mid-1960s. All new cars have used unleaded gasoline since the 1970s, and leaded gas was taken off the market altogether in the 1980s. Between 1961 and 1991, the average amount of lead measured in children's blood has declined from 19 to 6 micrograms per deciliter. The proportion of children with lead levels higher than 25 micrograms per deciliter—which until October 1991 had been considered the maximum safe level by the federal Centers for Disease Control (CDC)—is well under 1 percent.

The CDC has lowered its lead standard from 25 to 10 micrograms per deciliter; two studies found evidence that lead is hazardous to children even at such low levels. Both studies are inconclusive, however. The first was conducted in 1979 by Herbert Needleman of the University of Pittsburgh Medical Center, a strong advocate of lead abatement "whatever the cost." Needleman found that even at low levels, lead exposure leads to learning disabilities and lower IQ scores. But some scientists have raised questions about Needleman's methodology. For one thing, he failed to account for "confounding variables" that influence IQ scores, such as age, socioeconomic status, and family structure.

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A more rigorous study published in 1992 in *The New England Journal of Medicine* found that low-level lead exposure is correlated with lower IQ scores, even after adjusting for socioeconomic variables. But it included this caveat: "The results indicate that the deleterious effects of environmental lead are not large, and that only a small fraction of the overall variation in IQ can be attributed to lead exposure."

Indeed, it seems obvious, as lead-abatement critic Fred Smith argues, that factors such as crime, drugs, malnutrition, and the breakdown of the family have far more significant detrimental effects on academic performance than lead exposure does. If this were not the case, one would expect academic performance to have risen substantially during the last three decades.

None of this is to suggest that lead is not a serious problem, particularly in New York—a city where some 80 percent of the public schools and 40 percent of the housing stock were built before 1940, when lead was common in both paint and plumbing. But it is important that policymakers realistically evaluate the risks of lead and target their efforts where really needed. The lead from the Williamsburg Bridge, for example, turns out to have fallen mainly into industrial areas of Brooklyn, where there is little chance of children being exposed to it. At P.S. 3, none of the 34 five- and six-year-olds tested by the City Department of Health showed dangerous lead levels, although one child was near the threshold and has been recommended for continued monitoring. "The risk was theoretical, not a reality," says Dr. Elihu Sussman, a private physician who treats many P.S. 3 children. The school was reopened after a few weeks, and kids returned to class, some wearing black T-shirts that read: "100% lead-free. I survived P.S. 3—1992."

Unfortunately, regulators in both Washington and Albany will likely embrace a lead-abatement policy that is both costly and ineffective. Federal and state laws authorize regulations requiring houses and apartments to be inspected for lead, at a cost now estimated at $375 per unit, whenever they are sold or leased. If lead is found, it would have to be abated, at a cost ranging from $5,500 to $12,000 per dwelling. In New York City, where many low-income apartment buildings are already on shaky financial footing, such an additional expense could drive up the rate of abandonment, costing the city millions of dollars in expenses and forgone property taxes.

This approach is not only prohibitively expensive for many small landlords; it also would take a generation to remove the lead. Many families stay in the same home for a generation—particularly in New York City, where rent regulation offers a strong incentive to stay put—and lead abatement would not take place until they move.

A more sensible approach would be to offer targeted tax credits to property owners whose units pose the greatest risk—that is, the owners of dwellings with lead paint or plumbing that house families with children.

In public facilities such as schools and housing projects, the city should abate lead where necessary. But removing lead-based paint does not always make sense: It is costly and could increase health risks. "The evidence is overwhelming that poor deleading can actually worsen contamination," according to Stephanie Pollack of the Conservation Law Foundation's Lead Poisoning Project. A better method is "encapsulation"—sealing in the lead, usually by painting over it.

The city has already all but eliminated the risk of lead exposure from plumbing by adding a chemical known as blended orthophosphate to New York's water supply. The chemical creates a microscopically thin coating over the inner surface of pipes, preventing lead from seeping into the water.

Another important step the city could take would be to increase its participation in the school breakfast and lunch programs. Malnutrition exacerbates the risk of lead exposure: If a child's diet is deficient in calcium, iron, or zinc, the body will absorb lead at an accelerated pace. (Poor nutrition is correlated with low academic performance for other reasons as well, so improvements would be a cost-effective way of helping children.)

City officials estimate that there are at least 240,000 apartments with peeling lead paint that are home to small children. Under the regulations currently being proposed, cleanup would cost the city and landlords at least $2.9 billion. If authorities construe lead-abatement rules broadly, that amount could easily escalate to $7 billion—nearly one-fourth of the city's total annual budget. By taking the modest steps suggested here, the city could dramatically reduce the dangers of lead, and do so without busting its budget or further endangering the low-income housing stock. ■

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POLICE ACCOUNTABILITY—A BETTER WAY

George L. Kelling

The public debate over police reform in New York City has come to center on the idea of civilian review of police misconduct. This is unfortunate, for civilian review is a misguided proposal. As Tamar Jacoby points out elsewhere in this journal, it divided the city during the 1960s and is doing so again now. Even in cities where strong forms of civilian review have been tried, such as Milwaukee, there is no evidence that it is effective. Most importantly, it diverts politicians, policymakers, and police executives and unions from the hard work of pursuing meaningful reform.

This is not to say that police brutality is not a serious problem or that vigorous action should not be taken to hold police accountable for misbehavior. Indeed, most officers are indignant about abusive colleagues, and police union leaders complain off the record about having to waste union funds defending officers who should have been disciplined or dismissed long ago. The main problem in American policing, however, is that the dominant policing strategy of the past fifty years has failed—not just to control the small number of brutal officers, but also to maintain order, reduce fear, and control crime.

Civilian review cannot work because it attempts to control police by focusing on individual offenses rather than the factors that ultimately determine the character of police relations with citizens: recruitment policies, pre-service and in-service training, police and management culture, personnel policies, management practices, police tactics, and unrealistic public expectations of what police can accomplish—encouraged, for example, by politicians' "wars" on crime and drugs.

Civilian review is not the cost-free gesture it is often made out to be: It has serious detrimental effects on police morale and effectiveness. Officers believe that if something goes awry and they are charged with misconduct, they will not receive the needed understanding, support, and defense from their departments in the highly charged political atmosphere surrounding civilian review. This fear is reasonable, because departmental hierarchies and rules have little to do with the realities of police work.

The job of a police officer is far more complex than is generally recognized. It consists largely in managing conflicts. Typically, someone feels aggrieved and seeks redress, perhaps violently; police either happen on the scene or are called in. By the time the police arrive, the flow of events has already obscured right and wrong, "good guys" and "bad guys," aggressor and victim.

The officers must sort out what has happened. Each side presses its case on the officers; relatives, friends, and bystanders "know" what has happened and cheer or deride the disputants; other bystanders wander onto the scene and put in their two

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cents' worth. Uncertainty, conflicting claims, and ambiguity are the standard fare of police work.

Thousands of such events occur each day in New York City. It is a testimony to the craft of policing that officers almost always resolve the disputes in ways that leave the aggrieved parties satisfied, or at least reconciled to the outcomes and prepared to live with them. Police usually settle disputes by persuading, cajoling, educating, counseling, or ordering. But on rare occasions something goes wrong: an officer either makes a well-intentioned mistake or simply bungles a situation, or an officer or group of officers abuse their authority, as in the Rodney King episode or in the more recent incident of alleged brutality in Detroit.

It is a common myth that police officers approach conflicts with a feeling of power—after all, they are armed, they represent the state, they are specially trained and backed by an "army." In reality, an officer's gun is almost always a liability (except if someone's life is obviously threatened), because a suspect may grab it in a scuffle. Officers are usually at a disadvantage because they have to intervene in unfamiliar terrain, on someone else's territory. They worry that bystanders might become involved, either by helping somebody the officer has to confront or, after the fact, by second-guessing an officer's conduct and perhaps filing a complaint or falsely testifying against him. Civilian review heightens police officers' fears that they will be exposed to trivial or malicious complaints. This worry cannot be characterized as paranoid, given, for example, the political storm recently raised in Washington Heights after an officer shot an armed drug dealer during a life-and-death struggle.

Officers also worry that their departments will not support them adequately if something goes wrong. Officers on the street tend to believe that managers are so preoccupied with their own careers that they will not stand behind officers in ambiguous situations, protect them if they make mistakes, or defend them adequately against false charges. These are not unrealistic concerns.

This distrust of management is a complicated matter, linked to the management philosophy that has dominated most U.S. police departments for most of the twentieth century. In brief, this philosophy holds that police officers, left to their own devices, will become indolent and corrupt. To control these tendencies, police departments have established elaborate bureaucratic and command-and-control systems with complex hierarchies and intricate rules and regulations. But police rules and management systems are preoccupied with the internal functioning of the department rather than the complicated, unpredictable work of individual police officers.

Because managers are so isolated from the work of officers on the street, departmental incentive structures reward internal functioning rather than actual police performance. For example, one large police department with which I have worked (not the NYPD) has a special rank of senior patrol officer, with increased pay and status, which is granted for outstanding performance. Department heads nominate officers for this rank, presenting their recommendations to the chief of police, who makes a limited number of appointments. Recently, the chief of this department asked me to observe the nomination process. Every patrol officer nominated for senior status was in a staff rather than a line position—that is, all nominees worked in administrative jobs. When I asked them about this, the well-intentioned but perplexed administrators acknowledged that they simply did not have enough day-to-day contact with line officers to be able to identify those who perform outstandingly.

Line officers are well aware of these incongruities and view them as tantamount to political corruption. The common attitude is, "It's not what you do but who you know that gets you ahead in this department." Officers feel they face the prospect of putting their lives on the line without the hope of being recognized and rewarded by the department. Thus, quite understandably, they try to stay out of trouble—and the easiest way to do this is to do as little as possible and strive for a desk job. Civilian review can only increase the incentive to "stay out of trouble"—with disastrous consequences for troubled American cities whose residents long for a restoration of order and public safety.

Fortunately, the dominant policing ethos is changing. Community policing, as it is developing in New York City and elsewhere, is not just about putting more cops on the beat, nor is it merely a new set of tactics. Rather, it is a serious attempt to make the organization's structure and managerial processes responsive to the daily realities of police work. Most importantly, community policing is designed to improve the accountability of police departments by linking them, at all levels, far more closely with local neighborhoods. This new accountability is the key not only to preventing police brutality, but also to ensuring that police do a more effective job of protecting the community from crime and disorder. ■

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THE NEW YORK DISEASE

Fred Siegel

What ails New York? Senator Daniel Patrick Moynihan, discussing the city's inability to link Kennedy Airport to Manhattan by rail, asked recently if New York isn't suffering from the "British disease." Pre- and post-Thatcher, Britain has excelled in explaining why things cannot get done. Socially sclerotic, the British seemed incapable, at times, of even the most minor innovations. Until recently their standard bathroom sink had separate hot and cold nozzles so that someone washing his hands was alternately scalded and cooled. For our part, New Yorkers get scalded financially by continuing to collect bridge and tunnel tolls by hand at $40,000 plus per toll taker even though automation would be cheaper, more efficient, and environmentally beneficial.

It is not that we are incapable of spending vast sums on the infrastructure—particularly to subsidize the transportation lobby. But essential projects, like a new West Side Highway or a rail link to the airports, are beyond our political capabilities. *Newsday*'s Jim Dwyer has noted that the 63rd Street subway tunnel has yet to be completed—"four mayors, four governors, five MTA chairmen, and five Transit Authority chief executives after it was begun." Moynihan points out that considerable federal infrastructure money is in the pipeline for the state. "The great question for New York is this: Can the State do anything intelligent with that money?"

A declining faith in government and politicians is by no means peculiar to New York. The success of both the Perot campaign and the term limits movement has been matched across the industrialized world by a rebellion against established parties and entrenched bureaucracies. In Denmark and Canada, voting on European unity and a new constitution respectively, voters rejected the advice of all the major parties and political leaders. At the same time, the proportion of the vote garnered by the major parties in France and Germany has shrunk sharply, while in Northern Italy the Lombard League—which looks upon Rome's "civil servants" and the pork-barrel politics of Southern Italy much as Staten Island looks upon city hall—wants to separate from the rest of the country. For the Lombard League, Northern Italy's direct commercial connections with Central Europe are as important as the region's legal links to the Italian capital's kleptocrats.

In the new "boundary-less economy," political consultant Todd Domke argues, politicians are becoming "custodial figures, rather like museum guards and less and less part of creating anything." But while Domke's statement may be too strong to describe places that have either competitive party systems or initiatives and referenda, it certainly applies to one-party New York. The recent senatorial primary

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and general election were notable because in the face of the sharpest economic downturn in New York State since the Great Depression, the local economy went virtually unmentioned. Instead the candidates vied with each other over who had been more victimized. Meanwhile, in the absence of political options, disgruntled New Yorkers made for the exits.

New York's political and institutional arteriosclerosis notwithstanding, there are some mildly encouraging signs of adaptation that suggest possibilities for renewal. With the global economy beyond the control of Washington, let alone local government, the city's ability to compete will depend more than ever on an area where it can still make a decisive difference: the quality of its schools.

Back in the Age of Aquarius, the City University of New York and the Board of Education decided to venture where no school system had gone before: They scrapped the distinction that had previously been made between those who tried to achieve and those who did not. In a set of mutually reinforcing "reforms" that sent the schools spiraling downward, CUNY admitted all high school students regardless of their program of study or grade point average. The public school system, meanwhile, closed down its "600 schools," the facilities that were used to separate violent teens from the general student population. In sum, standards were scrapped in favor of a perpetual second chance.

Because of CUNY's policy of open admissions, the high schools were no longer pushed to prepare their students to jump the college admissions hurdle. The end of the 600 schools and a series of court decisions limiting the ability of principals to expel toughs ensured that the culture of the high schools was more and more dominated by the culture of the streets. Students forced to attend crime-ridden classrooms—there were 17 gun-related "incidents" in the first six weeks of this school year—went to college unprepared, forcing the colleges, at great cost and with rapid student turnover, to become remedial institutions. Not even metal detectors have been able to stem the flow of blood in the high school halls. But at CUNY, in the midst of sharp budget cuts—cuts driven in part by a loss of public confidence—the faculty identified the quality of incoming students as the system's biggest problem. It is the primary reason why, for example, only 8 percent of students at York, one of the senior colleges, graduate within five years. Overall, only half of CUNY students ever make it to their junior year, and only one in five earns a degree within five years.

For years a New York strain of the "British disease" produced an imaginatively evasive explanation of why nothing could be done. At times this took the form of a cycle of recrimination: CUNY insisted that the high schools had to raise their standards and the high schools answered back in kind. So much had been invested in both "reforms"—sold as the answer to minority achievement—that for two decades it was politically impossible to note their all-too-obvious failure.

But the palpable loss of public trust has begun to have an effect. It appears now that both CUNY and the public school system have undergone a partial "relearning" and are, without openly admitting it, beginning to bypass the "reforms." First, though CUNY still does not require a particular grade point average for admission, it is beginning to phase in a series of new requirements. By 2001, students will have to take an academic curriculum in high school in order to be admitted. Second, in order to cut down on "churning" (the rapid turnover of students who never graduate), a proposed new tuition schedule reintroduces a hidden form of screening by charging higher tuition for a student's first term while awarding free tuition in the last term. Similarly, Chancellor Joseph Fernandez has revived the idea behind the 600 schools. Through the nonprofit Wildcat Service Corporation, he has created a voluntary school where troubled kids can get special attention. Two more such schools are planned.

All this may be too little, too late to head off the "British disease." But if there are antidotes, educational reform is surely one. Without an accelerated academic restructuring, the city has little hope of withstanding the chill winds of regional and international competition. Unless we restructure our schools and other institutions, placing them under greater local control, we, like the British, can expect a long descent into second-class status. ■

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Breaking the Governmental Habit: Proposals for the Mayor

Stephen Berger

New York City government no longer works because it tries to do too much. Dysfunctional work rules and a top-heavy bureaucracy paralyze the agencies that provide municipal services. Herewith some suggestions to the mayor for making city government work again.

When New Yorkers choose a mayor next November, they will be choosing someone to lead the largest and most complex municipal government in the United States. The mayor they elect will, like his predecessors, be the nation's most visible local government official, a leading figure in the national debate about urban problems. Both in the United States and abroad, he will be one of America's best-known elected officials outside the White House.

Yet for all of the publicity and prestige that come with the job, for the past quarter-century New York City's mayors have been at best marginally effective in performing it. John Lindsay set laudable goals, but was rarely able to achieve them. Abe Beame was overwhelmed by the fiscal crisis. Ed Koch came on the scene with a welcome burst of energy, but eventually became a parody of himself, more TV performer than tough executive. David Dinkins is a decent man with honorable intentions, but he has reacted to events much more often than he has shaped them, and his administration is often in disarray. It is no accident that these men—the patrician reformer, the colorless bookkeeper, the feisty extrovert, and the quiet but determined defender of the poor—seem more memorable for their personalities than for their accomplishments. More than 25 years have passed since New York last had a mayor—Robert Wagner—remembered more for his record than his public persona.

Defenders of the last few residents of Gracie Mansion may well argue that such criticisms are unfair, especially in the cold light of history. Even the greatest of the city's mayors, they point out, were effective only some of the time; and we forget too easily the mediocrity and venality that separated their tenures.

Yet it seems hard to shake the sense that things are different now, and not for the better. We expect the mayor to manage a vast municipal enterprise, but more often than not the city's bureaucracies appear beyond his control. We expect the mayor to take the lead in responding to an endless array of social and economic problems, but the city's efforts seem notable mostly for their high costs and meager results. We want the mayor to help bring us together, yet the city has rarely seemed so divided, or the level of popular disaffection so high.

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The explanation for the dilemma is not hard to find. The mayoralty no longer works because it is the beleaguered center of a political and governmental system that no longer works. The city as it is now constituted is failing, first, because it has taken on a range of responsibilities that it has neither the resources nor the competence to discharge effectively; second, because it operates under formal and informal rules that are archaic and dysfunctional; and third, because it has allowed its citizens' sense that they are part of a single political community to fray to the point of unraveling. Perhaps the single greatest obstacle New Yorkers face as they strive to affirm the city's position in a rapidly integrating global economy and achieve some measure of social justice is the institutionalized ineptitude of their own government.

How are New Yorkers to overcome that obstacle? Ironically, their best hope for doing so lies in the very office that now epitomizes the failures of the existing regime. With the power to act dispersed among so many conflicting interests, only the mayor can initiate the sweeping changes in government and politics that New York needs. Only he can effectively call "time out" and demand that the rules of the game be changed—and only by doing so can he escape from a game he is now doomed to lose. If he is to establish clearly his claim to a second term, David Dinkins will have to begin during the next year to create a framework in which city government can be made to work again. He will have to deal with two fundamental questions: First, what do we want city government to be responsible for—and what should be the limits of that responsibility? Second, under what kinds of rules do we want city government to operate?

The Functions of City Government

The most important prerequisite of effective mayoral leadership would be the establishment of a new consensus about the scope of city government. Without such a consensus, the mayor will face perpetually recurring fiscal crises and deteriorating services, and will be unable to focus his attention on what is really important.

The question of municipal government's proper scope has a different dimension in New York than in virtually any other city. New York's elected officials, entrenched bureaucracies, organized interests, and media all share the illusion that city government wields great power to remedy all kinds of social and economic ills—much greater power than it actually has or ever could have.

In New York's political culture, it is difficult for city leaders to treat any problem as being outside the scope of the city government. City Hall is expected to build subsidized housing for the poor and regulate rents for the middle class; provide free medical care to those who lack insurance and halt the spread of tuberculosis; provide huge subsidies to commercial real estate developers and capitalize small businesses that cannot get bank loans. City hall has its own foreign policy, concerned especially with the struggles against racism in South Africa and British oppression in Northern Ireland. The city even has its own radio and television stations, and its own chain of betting parlors.

In New York's political culture, it is difficult for city leaders to treat any problem as being outside the scope of the city government

In most of the United States, to assert that local government by nature has strictly limited functions—that not every serious problem can be solved by the local government—is simply to state the obvious. In New York, it is to risk being branded a hopeless reactionary.

Neither in the fiscal crisis of the mid-1970s nor in that of the past few years have the city's mayors been willing to distinguish essential functions—those to which the city must be committed even in hard times—from those that are expendable, or, while important, must be left to someone else to handle. Instead, when forced to do so by recession,

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mayors have usually cut spending across the board without reducing the scope of city functions. When the economy recovers, they restore what was cut and take on new responsibilities as well. Thus, between 1983 and 1989 the Koch administration added fifty thousand employees to the city's payroll and launched major new programs to shelter the homeless, build subsidized housing, and combat AIDS. The Dinkins administration has followed the same pattern, defining its budgetary problems almost entirely in terms of employee head counts, allowable salary increases, and the need for new taxes. It has spurned any suggestions of serious reductions in the scope of city government activities.

This approach produces a government that has a remarkably wide range of functions, but performs none of them particularly well—and that will never be able to maintain a stable financial balance.

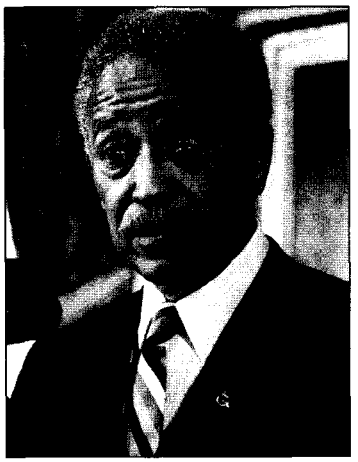

Photo by Don Hogan Charles

David Dinkins 1990-Present

Edward Koch 1978-1989

The current painful restructuring of New York's economy only serves to sharpen the conflict between the city's boundless ambitions and its limited resources. Since 1989 New York City has lost some 350,000 jobs. The recovery, when it arrives, is likely to be sluggish. It is unlikely that the mayor will enjoy anything like the boom that allowed the Koch administration to keep feeding the municipal spending machine anytime in the foreseeable future. This reality seems to be widely recognized by nearly everyone except city hall.

The inability to define the city government's limits also leads to chronic confusion about what the state government should be doing, undermining the city's ability to pressure the state to fulfill its responsibilities.

In the late 1960s, for example, city officials often criticized the State Employment Service for what they saw as unresponsiveness to the needs of the city's low-income minority communities. But rather than working with the state to make the program more effective, the city created its own network of employment centers. This not only led to a costly duplication of services, but also, in effect, let the Employment Service off the hook. (Years later the State Labor Department did much to improve its efforts in the city, but by then the duplication of services was well ingrained.)

The same pattern prevails in other areas as well. The city's Department of Mental Health, for example, provides only a limited range of services. But its very existence helps New York State to rationalize its chronic underinvestment in community services and overinvestment in the maintenance of large psychiatric institutions. As Heather Mac Donald writes elsewhere in this journal, the fragmentation of official responsibility, combined with other factors, makes it very difficult for the mentally ill to get effective treatment. Rather than trying to run a parallel system, the mayor should tell Albany, "Caring for the mentally disabled has been your responsibility since the nineteenth century—so do it."

Similarly, division of responsibility between the city's Economic Development Corporation and the state's Urban Development Corporation sometimes seriously complicates the planning and execution of major projects. Divided responsibility also makes it more difficult to hold any single person or agency accountable for the effects of regulatory

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excesses in areas like rent control and the regulation of private bus lines.

In addition to blurring state responsibilities, the illusion that government can do everything blinds the city's leaders to alternate means of achieving important public objectives. Mayor Dinkins, for example, deserves credit for his determination to reduce poor New Yorkers' dependence on hospital emergency rooms for routine medical care. But is establishing a new network of city-operated primary care centers really the best solution? It might have made more sense for the city to work with state officials to create new incentives for private and nonprofit health-care institutions to provide these services.

The overextension of city government also tends to reinforce a long-standing pattern of inadequate investment in the city's infrastructure. Because New York's mayors have been unwilling to set overall priorities, they have never been able to define a coherent strategy for public investment. In good times, the city's capital plan becomes a compilation of agency wish lists; in bad times, it's an inviting target for budget cutters. This pattern assures that important projects will be delayed or neglected and that the cost of what does get built will be inflated.

Abraham Beame 1974-1977

Photo by Ed Hausner

John Lindsay 1966-1973

The next mayor needs to take the lead in forging a new, more narrowly focused definition of the scope of city government. Protecting public safety, maintaining New York's infrastructure, and educating the city's children should remain at the heart of that definition; other goals should be open to discussion.

Given the wide range of constituencies with a vested interest in various municipal functions, it will not be easy to reach a consensus on this question, let alone enforce it. But no one other than the mayor is even in a position to try. Moreover, the mayor has at his disposal a uniquely powerful instrument—the city's executive budget process. The budget can refashion city government in a new image: the image of a government that attempts to do fewer things, but does them well.

In 1993 New Yorkers should ask David Dinkins, as well as those who would replace him, to name the four or five things they think it most important for city government to do—and four or five major functions they would eliminate. Any candidate who cannot cogently address both sides of the question does not deserve their vote. (My own list of businesses the city should get out of would include hospitals, mental health and drug treatment services, off-track betting, operation of port facilities, most of the activities of the Department of Consumer Affairs, and subsidization of commercial real estate development.)

Changing the Rules

City officials love to talk about "restructuring" the government but rarely seem prepared to do it. Yet the city, like many other large organizations of the Industrial Age, needs to overhaul the ways in which it does business. The mayor must take the lead in initiating and directing that process.

New York City's government is in many respects the public-sector equivalent of General Motors: a large, highly bureaucratized, top-down organization that long enjoyed a reputation for being the biggest and one of the best at what it did,

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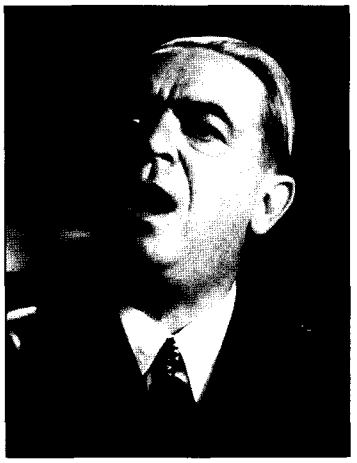
but which paid only passing attention to its customers, let its own institutional needs rather than customers' drive the design and delivery of services, treated even its most professional employees like cogs in an industrial machine, and didn't worry very much about its costs. Just as GM has lagged behind many other large companies in rethinking the way it works, so New York City is no longer a leader in the art of municipal government. It is still by far the nation's biggest local government, but there are few areas in which it can plausibly claim to be the best.

Though the aspects of city government needing an overhaul are too numerous to describe here in detail, two broad topics urgently require the mayor's attention: labor-management relations and the concentration of decision-making power in city hall.

Robert F. Wagner 1954 -1965



William O'Dwyer 1946 -1950

In many large private-sector companies, labor-management relations have changed significantly in recent years. Managers have come to value the intelligence and experience of front-line workers, give them greater responsibility, and encourage them to initiate change. Labor leaders have recognized the need to cooperate with management, satisfy customers, and stay competitive. In city government, however, the prevailing view of labor-management relations—perhaps not rhetorically, but in reality—is still stuck in the first two decades of this century.

The Civil Service system long ago sacrificed both managerial efficiency and employee equity in the name of protecting us from political party machines that have been dead for at least a generation. Civil Service not only accepts mediocrity but virtually enforces it as a standard. It tolerates incompetence and discourages those who want to strive for excellence. In such a mind-numbing environment, it is not surprising that the goals of municipal employee unions are so similar to those of the industrial unions of a generation ago: Make sure our people are well paid, make sure they are not treated unfairly, and tie management down with as many work-rule restrictions as possible. The system does not care about the quality of the product, union leaders reason, so why should we?

In the long run, the success of reform will depend greatly on the city's ability to reward both managers and front-line workers who perform effectively—and, to a lesser extent, on its ability to penalize those whose performance is unacceptable. As long as the system is driven by standardized pay scales and test scores, compensating and promoting people based on performance will be difficult.

The concept of "school-based management," for example, has been widely hailed as offering real potential for improving public education. But truly allowing principals to manage, and holding them accountable for their performance, would require both that principals be given more authority and that they be made more accountable. Principals need greater control over hiring, which would require the elimination of teachers' system-wide seniority rights. Principals, rather than custodians, should have control of school buildings. But at the same time, if principals are truly to manage their schools they must be judged solely on the basis of individual performance, and that requires eliminating both collective bargain-

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ing and tenure (though principals could maintain tenure as teachers).

There are islands of excellence throughout New York—the Board of Education's alternative high schools program, for example—that show how innovative and effective city employees can be when given both the freedom and the responsibility to find better ways to deliver services. But in all too many areas, archaic Civil Service rules, inflexible contract provisions, and adversarial labor relations almost guarantee that the city will not be able to fully use the talents of its workers.

Mayor Dinkins has taken some steps toward eliminating archaic work rules in a number of city departments. But painfully negotiating individual work-rule changes within the existing collective bargaining framework is not enough. The mayor has to take the lead and work with top leaders of the municipal employee unions to change the culture of labor-management relations. Many people throughout city government—from commissioners to those who deliver service at street level—will have to be involved in the process. It will not happen at all, however, without the mayor's leadership.

Fiorello LaGuardia 1934-1945

James J. Walker 1926-1932

A related problem is the excessive centralization of authority. Recent mayors have sought to solve all kinds of managerial and political problems by concentrating power in the executive office. Top-level managers throughout city government are consequently forced to clear all kinds of decisions, both momentous and mundane, through city hall.

Since the Koch era, the concentration of authority has been accompanied by a proliferation of mayoral staff offices. Mayor Dinkins's creation of the new position of deputy mayor for health and human services, for example, added another layer to a mayoral oversight bureaucracy that already includes an Office of Operations and an Office of Children and Families, as well as the Office of Management and Budget. An earlier generation of American reformers believed that the best cure for the problems of democracy was more democracy. Today, New York's mayors seem to believe that the best cure for the problems of bureaucracy is more bureaucracy.

Large, complex enterprises cannot be managed effectively in this top-down, hierarchical fashion—a lesson that companies like General Electric and IBM have learned, but one that seems to have escaped city hall so far. The mayor has to stop seeing himself as a one-man band, and more like the conductor of a symphony orchestra. His job is not to play all the instruments, but to bring out the best in the professionals he has assembled and to make sure they play in harmony.

In a government of strong commissioners and well-managed agencies, the mayor would not need the army of apparatchiks or the posse of deputy mayors that now surround him. To end the crippling overcentralization of city government, he should sharply reduce his own staff in and around city hall, appoint commissioners in whom he has confidence, give them the authority they need to do their jobs, and hold them accountable for their performance. He should also make clear that he expects them to run their agencies the same way.

Ironically, David Dinkins may by temperament be better suited to the role of chief-executive-as-orchestra-leader than any mayor since Robert

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Wagner. Dinkins is not by nature a politician who needs to monopolize the spotlight. Yet he has, to a great extent, remained the prisoner of executive institutions created by predecessors who defined the mayoralty as a solo act. Dinkins would be better served by a set of institutions built more in his own image.

The mayor must act as a consensus-builder in relations with other parts of the government as well. For example, as a result of changes in the City Charter as well as the effective leadership of Speaker Peter Vallone, the City Council is becoming a more effective legislative body, one with which the mayor will have to share both the responsibilities of leadership and the political spotlight. The contrast between the conflict-ridden 1991 city budget process and the much more smoothly managed 1992 edition suggests that Mayor Dinkins has already learned this lesson well.

Mayors also need to learn that they cannot be effective as solo performers in making the city's case to Albany. Despite the publicity that surrounds mayoral pilgrimages to the state capital, the harsh truth is that for the past three decades no mayor has been an effective advocate for the city's interests there. And the mayor will continue to be ineffective until he begins to organize and orchestrate much broader coalitions of those who share the city's interests—including local leaders from other parts of the state.

There are sometimes real differences, of course, between the interests of New York City and those of the suburbs and upstate areas. But localities throughout the state also have many common interests: reducing and ultimately eliminating local contributions to the state's Medicaid program; relaxing state mandates in areas like special education; and increasing state support for community colleges, for example. That little progress has been made in these areas reflects the chronic paralysis of Albany's divided government. But it also reflects New York City's failure to build the political alliances needed to overcome that paralysis.

Of course, working sessions with upstate mayors or county executives lack the glamour of photo opportunities with chiefs of state; "Excuse me—I have a call from Nelson Mandela" sounds a lot more impressive than "Excuse me, but I have a call from Andy O'Rourke." But mayors are not elected to be junior secretaries of state. They need to pay more attention to Buffalo and Binghamton than to Belfast.

The harsh truth is that for the past three decades no mayor has been an effective advocate for the city's interests in Albany

Decentralization is also necessary to make the city government more directly responsive to its people. Dissatisfaction with, if not downright hostility toward, New York's government is widespread. This dissatisfaction is most acute on Staten Island, where a recent poll found that 75 percent of residents would favor secession even if it required a 25 percent increase in their property taxes.

Staten Island's longstanding sense of alienation from the rest of the city makes it an extreme case, but the anger behind the demand for secession is by no means unique to Staten Island. It is manifested as well in neighborhood resistance to waste disposal facilities, shelters for the homeless, and other projects perceived as being imposed from outside the community. One advantage of old-style political machines was that they provided links between city hall and the neighborhoods, a means to develop a citywide consensus, and the discipline to enforce it. In a word, they helped endow city decisions with legitimacy—a quality that many New Yorkers no longer recognize in city hall.

Since no institution has filled the void created by the demise of the old party machines, the next mayor should pursue another route to reestablishing legitimacy: a redistribution of functions between city hall and local communities. Faced with a seemingly insoluble stalemate on the issue of solid-waste disposal, for example, the mayor might try requiring

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every community district to come up with its own plan for managing its garbage. Bringing a wider range of neighborhood interests into the process, within the confines of a much smaller area, should eventually lead to more realistic judgments about the need to pursue all three methods of disposal—recycling, incineration, and continued use of landfills—simultaneously.

Once this need was recognized, districts could begin negotiating deals among themselves. One Bronx district, for example, might build an incinerator that serves three others, each of which builds a recycling center. Under this scenario, the Sanitation Department would be converted from a hierarchically driven public bureaucracy into a provider of planning support to the districts, as well as a vendor that contracts with individual districts to carry out their plans—and perhaps even competes with private vendors for such contracts.

The next mayor should pursue a redistribution of functions between city hall and local communities

As long as it remains a highly centralized, highly bureaucratized city-state, New York City will have great difficulty winning back the confidence of its citizens. Redefining the city as a federation of communities may actually be the most effective way to keep it together. In the absence of such a move, New Yorkers will choose to secede—if not legally, then psychologically. And in the long run, the latter form of withdrawal may prove the greater threat.

Conclusion

None of this is to suggest that there is no role for an activist city government. New York City needs a great commitment of energy and resources to narrow the divisions between blacks and whites, rich and poor, old and new immigrants. This may seem inconsistent with the goal of a city government limited in scope. But it is not, for those most in need would be far better served by a government able to decide what is really important than by a government that pretends it can do everything. The city's pressing problems demand that the mayor present a clear vision of the city, define priorities that reflect it, and make hard budgetary and political choices accordingly.

That may sound like an elementary definition of the mayor's job, but it is one that no recent incumbent has been willing to embrace. In 1993, New Yorkers should measure both Mayor Dinkins and his challengers by their readiness to take on this task. ■

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Have We Crossed the Line? The Human Cost of Deinstitutionalization

Heather Mac Donald

For nearly seven years, Larry Hogue, a schizophrenic crack addict, has terrorized the residents of West 96th Street. Thousands of people with similar disorders live on the streets of New York, but negligent mental health policies and misguided legal decisions prevent officials from protecting the public or providing effective psychiatric care to those who desperately need it.

"I'm going to kill you," Larry Hogue muttered to Lisa Lehr as she got out of her car on the night of January 5, 1992. Hogue, a mentally ill crack addict, was an all too familiar fixture on West 96th Street, where Lehr, a 54-year-old retired teacher and community activist, lives. With determined New York bravura, Lehr decided to ignore his threat, and quickly crossed the street to her apartment. When she looked out the window a few minutes later, she saw the burly Hogue smash a marble bench through the window of her car, bending its frame. Hogue then defecated in the back seat.

It was a typical night out for Larry Hogue. For years he had terrorized Lehr's neighbors—vandalizing cars, setting fires, threatening elderly people and children, once even pushing a girl in front of an oncoming truck. Whenever the community sought the help of the authorities, their advice was always the same: Drop dead. Unless the community could produce a dead body on Hogue's account, neither the mental health nor the criminal justice system was prepared to keep him off the street. As if to drive the point home, an employee in the Manhattan District Attorney's Office once handed Lehr, who was leading a community effort to commit Hogue, a flyer for "Homicide Victims Support Groups." The flyer was for her husband—in case Hogue got to her before the authorities decided what would be the reasonable thing to do with him.

However macabre this incident, it seems no more bizarre to the residents of West 96th Street than the normal procedures of New York's mental health system. Hogue has been brought into psychiatric emergency rooms innumerable times over the years in a drug-induced psychotic state, only to be discharged within days to begin the cycle again.

West 96th Street's as-yet-unsuccessful struggle to break that cycle has proven one of the more surreal forays into the bureaucratic morass. Lehr and her neighbors have encountered enough official blundering and callousness to make even the cynical New Yorker weep. More importantly, their efforts to commit Hogue have illuminated every facet of the therapeutic and social disaster known as "deinstitutionalization." This was the process whereby the most venal instincts of state legislatures combined with civil-libertarian ideology run amok to destroy the system of care for mental patients. The men-

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tally ill now enjoy a full panoply of legal rights. Unfortunately for them, these rights often prevent them from receiving effective treatment. As a result, thousands of increasingly violent mentally ill are being turned away from hospitals to wreak havoc on communities like the Upper West Side.

Nightmare on 96th Street

When Hogue first arrived in the neighborhood about seven years ago, he seemed relatively harmless. Residents, including Lehr, fed him and gave him blankets. But something was not right: Hogue was homeless, despite receiving a $36,000 annual tax-free pension from the Veterans Administration for a brain injury he suffered in Vietnam.

Hogue was addicted to crack. He was also schizophrenic, a condition one of his former doctors believes was aggravated by his war injury. As his addiction worsened, so did his madness. He developed certain signatures: garbage strewn on the sidewalks, an entire block of cars with gasoline-soaked rags stuck in their gas tanks and their side-view mirrors broken off, fires smoldering under cars and in the street.

Residents also learned that Hogue holds a grudge. The second time he broke Marilyn Boutwell's car windows, she filed charges. Since then, she says, "he has threatened me with a lead pipe, and he has leapt out at me at night." When a woman politely referred Hogue to a local soup kitchen instead of giving him money, he chased her into her building and began screaming and pounding on the windows in the vestibule when he was unable to get through.

Hogue often hurls himself into traffic. He jumps onto moving cars and pummels the windshields. In 1992 alone, he caused $10,000 in damage to the landmark Christian Science Church on 96th Street and Central Park West by hurling cinder blocks through its stained-glass windows. For three years, the church has requested relief from Mayor Dinkins's "Action Center." It has yet to receive a response.

Children and the elderly have been among his targets. Michael Oliver has seen Hogue "jump out from hiding and grab passing schoolchildren, screaming obscenities." Oliver says they often flee into moving traffic. Many neighborhood children are now terrified to go outside; at least one is in therapy. Lehr has seen a club-wielding Hogue chase an elderly woman down the street.

In 1988, a 16-year-old girl was walking home from school when Hogue punched her in the stomach and pushed her in front of a Con Edison truck, which swerved in time to avoid hitting her. A jury found him guilty of reckless endangerment but acquitted him of attempted murder; he was sentenced to one year in prison. The girl and her family subsequently moved upstate.

Hogue has been arrested at least nine times in New York on charges including attempted murder, assault, robbery, weapons possession, and criminal mischief. He has been sentenced to prison six times since 1984; the one-year term was his longest.

Hogue has been an even more frequent, though always fleeting, presence in the mental health system. According to Robert Spoor, spokesman for the State Office of Mental Health, Hogue has been in and out of mental hospitals since 1972, but he has never been hospitalized for longer than six months. Usually the hospital releases him within 24 hours after the police bring him in. The city's psychiatric emergency rooms are intimately familiar with him. On one occasion the police were turned away from six emergency rooms with Hogue restrained in their back seat.

Thousands of increasingly violent mentally ill are being turned away from hospitals to wreak havoc on communities like the Upper West Side

By the time Hogue smashed Lisa Lehr's car, her neighbors had organized their lives around him.

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Whoever first spotted the telltale garbage strewn over the street or the rags in the gas tanks would notify the neighbors that "Larry's back," so that people could stay off the streets until the police picked him up again.

When Lehr went to the 24th Precinct to file charges, she discovered that officers had "massive dossiers" on Hogue. Realizing that many of her neighbors must be among the victims, she began making calls. Within 48 hours, people were calling and writing her. "They had been in hiding and were only now coming out, because they said they did not want to be 'posthumous,'" she explains.

Soon after Lehr filed her complaint, Hogue again went out of control and was taken to the Manhattan Psychiatric Center, a state hospital on Ward's Island. Heidi Higgins, one of the police officers who had picked Hogue up, organized a meeting at the hospital of Hogue's medical team, nine of his victims, herself, and another police officer.

The meeting at Manhattan State, Lehr says, was "demoralizing and frightening." The hospital staff told the victims, "Hogue is more violent than you think, but we can't tell you what's in his record." Many of the community representatives were crying. "Why are you telling us this," they pleaded, "without protecting us?" According to Linda Mayers, another resident of 96th Street, Hogue's medical team answered that they were "unable to hold him because of his rights." When the effect of the crack wears off, the hospital team claimed, "he becomes a model patient, and we have to release him."

An agreement was reached at the meeting: If the hospital decided against involuntarily committing Hogue, it would notify the community and the District Attorney's Office so that Hogue could be arrested on Lehr's complaint immediately upon his discharge.

That evening, Lehr says, she received an unofficial phone call from one of Hogue's caseworkers. The caseworker said she was terrified for the community, because Hogue was "homicidal" and the residents of West 96th Street were "all PIVs—potentially identifiable victims." In her opinion, the medical team had portrayed Hogue as a model patient as a pretext for releasing him. In truth, she said, they simply did not want him on their ward.

The caseworker said Hogue was "homicidal" and that the residents of West 96th Street were "all PIVs—potentially identifiable victims"

Having assuaged her conscience by passing along the information, the caseworker told Lehr, "Now we [the medical team] can sleep."

On January 22, Manhattan State broke its promise: It released Hogue without notifying anyone. On February 1, Hogue was arrested after becoming violent. It took seven officers to pick him up and take him to Bellevue for evaluation. He was released on February 3 to police custody.

The same day, City Council President Andrew Stein wrote Richard Surles, the state commissioner of mental health, urging an in-depth review of Hogue's case, followed by long-term treatment. The letter he received in reply from Robert Hettenbach, regional director of the State Office of Mental Health, speaks volumes about New York's mental health system.

Hettenbach informed Stein that Hogue was in Manhattan Psychiatric Center from November 21, 1991, until January 22, 1992—a patently false statement, since he smashed Lehr's car on January 5. Hettenbach further claimed that the hospital discharged Hogue to live with a relative in New Jersey, with after-care provided by the East Orange VA Hospital and a Narcotics Anonymous group—a fantasy scenario. Hogue's brother in New Jersey reportedly has refused to have anything to do with him since Hogue allegedly attempted to burn his house down. Finally, Hettenbach wrote that there was no record of Hogue's admission to Bellevue in

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early February. (In a subsequent interview, Hettenbach said he got his information from the central registry of the Office of Mental Health, a system he termed "quite accurate.")

The letter's conclusion is cruelly ironic: "We will continue to work with the community, police, and other agencies as needed to address Mr. Hogue's complex service needs."

On February 4, Hogue was arraigned on Lehr's complaint. Bail was set at $2,000 on April 15. By that time, Assistant DA Paul Schechtman had become actively involved in the case. During pretrial negotiations in March and April, Schechtman had tried to persuade the VA hospital in the upstate town of Montrose to accept Hogue for three months in its inpatient drug rehabilitation program. Hogue was initially eager to enter the program, but later became recalcitrant. Montrose declared that it would accept him only on a voluntary basis.

Around the same time, one of Hogue's former doctors also became involved in the effort to secure long-term treatment for him. As director of the emergency psychiatric room at St. Luke's Hospital from 1977 to 1990, Dr. Michael Pawel saw Hogue at least a dozen times. Known on the wards as "Treat 'Em and Street 'Em" for his opposition to involuntary commitment, Pawel nevertheless wrote Montrose twice urging that Hogue be confined. Hogue was, in Pawel's words, such "a mess" that "any competent doctor would know he was dangerous."

On April 30, Hogue made bail, returned to West 96th Street, painted himself green, and went on a rampage. It took four police officers to calm him down and take him to St. Luke's. This time, Schechtman explains, doctors determined that Hogue "presented himself as truly dangerous" and could be held involuntarily for sixty days. Schechtman secured Hogue's transfer to Montrose. At the end of May, however, the VA doctors decided, according to Schechtman, that Hogue was no longer an "imminent danger to the community" and released him. Hogue eventually pled guilty to criminal mischief, served the remaining two months of an eight-month sentence, and left prison on Saturday, August 15.

The next day Lehr got a call from St. Luke's. A hospital official told her that Hogue had just left the hospital after walking in and demanding money for drugs; he couldn't cash his VA check until Monday. The official told Lehr that Hogue could not be held because he had entered voluntarily, but did offer Lehr some helpful advice: "Watch out, because the drugs will make him violent."

The next morning, a camera crew from "60 Minutes" was waiting at Hogue's bank. It filmed him cashing his benefit check, going to a crack-house to get high, and descending into complete psychosis. During that week, Hogue was picked up on Wednesday and released from St. Luke's on Thursday, then picked up, straitjacketed, on Friday and released later the same day. When he was not traveling between 96th Street and St. Luke's, Hogue roamed the neighborhood with a machete, screwdriver, and ice pick sticking out of his pockets.

On August 23, Andrea Kerzner-Torgovnik saw Hogue scrape the length of her car with a long knife. She filed charges. At his arraignment, according to police, Hogue threatened the judge, accused Schechtman of assassinating John Kennedy, and had to be put in restraints. Hogue was held at Bellevue until December 7, when a judge declared him competent to stand trial. At this writing, no trial date has been set.

Undoubtedly spurred by the media storm surrounding the case last summer, city, state, and federal officials have established an "Interagency Treatment Coordination Group" to resolve the Hogue problem. The list of agencies represented illustrates the labyrinth that the mental health system has become: the VA hospital at Montrose; the Visiting Nurses Service of New York City; the Manhattan DA; the State Office of Mental Health; the Office of Mental Health Bureau of Forensic Services; the City Department of Health; the City Department of Corrections; Project Help; the 24th Precinct; the City Department of Mental Health

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Forensic Psychiatry Clinic; the Department of Mental Health Crisis Assistance and Training Unit; St. Luke's emergency room; Bellevue; the Health and Hospitals Corporation; and the City Department of Mental Health, Mental Retardation, and Alcoholism Services.

The Bureaucratic Muddle

There is an official and an unofficial explanation for why Hogue is continuously discharged from the hospital without receiving long-term care. These are matched by official and unofficial versions of Hogue himself. The official explanation was offered to Lehr and her neighbors at Manhattan State: Hogue is brought to the hospital after taking drugs and "decompensating" on the street; in the hospital, the crack clears from his system and he no longer poses a danger to himself or others; the law allows the involuntary retention of patients only if they are dangerous; therefore, when Hogue stabilizes, he must be discharged.

The farther one is from the fray, the more compelling this logic becomes. In Albany, it is all but irrefutable. Robert Spoor of the State Office of Mental Health insists that "when Hogue's condition improves, the responsible thing is to allow him to leave."

The official Hogue is a Jekyll-and-Hyde figure—docile when treated, a terror on the streets. But officially, even the Hyde component is not so troubling. "The charges against Hogue have always been misdemeanors," Spoor points out. (In fact, Hogue has been charged with, though not convicted of, felonies.) Spoor adds that Hogue "has never done substantial harm." When asked if he did not consider pushing a girl in front of a truck "substantial harm," Spoor conceded that he did, but quickly countered with the rhetorical question of whether Hogue had ever been *convicted* of a felony.

The unofficial explanation surfaced in Lehr's conversation with Hogue's caseworker: Hogue is always discharged because he's a pain in the neck. The unofficial Hogue is *never* a model patient. "You can't turn your back on him because he will be climbing up the walls to dismantle the lights, or destroying furniture," says Pawel, his former doctor. Pawel says the law provides ample authority to commit Hogue, who is "one of the very few who actually meet the standards for long-term commitment." No one is using the available legal authority, however, because no one wants Hogue on his ward, according to Pawel. Not only is he disruptive, but because he is not going to get better, he is ungratifying to work with. Most importantly, he would ruin a hospital's "stats."

For budgetary reasons, hospitals are under pressure from the State Office of Mental Health to decrease their patient populations. When Albany issues a mandate to cut a hospital's census, Pawel says, "it's Hogue that's going to get cut."

The mental health system is particularly ill-equipped to treat "dual diagnosis" patients, those who suffer from both psychosis and addiction. Drug addiction is not included in the statutory definition of "mental disorder." As a result, according to city Mental Health Commissioner Dr. Luis Marcos, mental health professionals feel "disempowered" to treat someone "just" because he is high. Drug treatment programs, meanwhile, turn away mentally ill patients, because the combination of street drugs and psychotropic medication can be lethal.

Dr. Gregory C. Bunt, director of the Mentally Ill Chemical Abusers program at the Manhattan Psychiatric Center, argues that current law makes it impossible to offer effective treatment to patients who suffer from both psychosis and addiction. (Bunt headed Hogue's treatment team at Manhattan State in January 1992, but will not discuss the specifics of the case.) According to Bunt, New York's treatment system offers only two options of care: commitment in a locked ward or release to the streets. Rehabilitating drug addicts, however, requires graduated levels of responsibility and freedom in order both to provide incentives and to test compliance.

Furthermore, mentally ill addicts need real long-term care—at least a year—in a residential program. But, Bunt says, even "a few extra weeks of

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treatment is considered 'long-term'" by judges who make commitment decisions.

There *are* programs for mentally ill substance abusers, but they are overcrowded and their patients are almost all either voluntary or probated from the criminal courts. According to Bunt, two factors inhibit civil judges from committing patients to such programs. First, judges know that "if they set a precedent, we will need to create the facilities." Second, the commitment decision is unenforceable: If a patient "elopes" from a drug treatment program, a civil judge has no legal authority to order him back.

Additionally, the law prohibits commitment if there are "less restrictive alternatives available." As Bunt explains, a judge feels compelled to release a clean, sober patient who assures him that he is not a danger and will seek outpatient drug treatment upon release—especially if he knows that committing the patient for a few more weeks will accomplish nothing. The judge cannot ensure, however, that such a patient remains true to his word.

The Deinstitutionalization Disaster

At the root of both explanations of the Hogue debacle lies the legal rule that a mentally ill patient can be committed only if he is a danger to himself or others. This "dangerousness" standard either compels (the official explanation) or provides a pretext for (the unofficial explanation) the discharge of the still-addicted, still-psychotic Hogue as soon as his symptoms abate. Yet though he may momentarily not be dangerous, Hogue's release does him no service, since it is obvious that he desperately needs treatment.

How did we arrive at a point where hospitals not only refuse treatment to those most in need of it, but claim they are obligated to do so? The excesses of deinstitutionalization have resulted from the unhappy conjunction of two powerful forces: a civil libertarian ideology indifferent to social consequences, and the state's eagerness to cut its mental health budget regardless of the human costs. Though their motives differed, the cost-cutters and the libertarians shared a common purpose: to evacuate, then close the door to, the state hospitals.

Deinstitutionalization was born out of revulsion at the often barbaric conditions of state hospitals at the end of World War II and optimism about new methods of treating mental illness. Proponents argued that recently discovered antipsychotic drugs would allow patients to lead normal lives outside institutions. But while some patients benefited from the reorientation of mental health policy, others were denied the only thing that could help them: intensive, long-term care.

The first major legislative initiative of the deinstitutionalization movement was the federal Community Mental Health Centers Act of 1963 (CMHC Act). The act provided seed money for a nationwide system of mental health centers that was intended to render state hospitals obsolete.

Deinstitutionalization proved irresistible to state governments, which embraced it as a way to save money. During hearings on the CMHC Act, the doctors who testified were questioned most often about the act's supposed cure-all effect on states' ballooning mental health budgets. Spending on hospitals had increased dramatically because of the unionization of hospital workers and the eight-hour working day. By discharging patients to the promised federally subsidized community health centers, states expected to reap significant savings. Subsequently enacted federal benefits such as Medicare, Medicaid, and Supplemental Security Income increased the incentive for states to discharge patients, because such benefits were only available to patients outside state hospitals.

The subsequent history of deinstitutionalization can be quickly summarized: Patients got dumped, and the community facilities that were supposed to care for them never materialized. Nationwide, only half of the two thousand community centers projected by the CMHC Act were ever built; New York State got 31 of the 100 that had been planned. The centers that were built decided early on that they preferred to treat what Dr. E. Fuller Torrey of the Public Citizen Health Research Group calls the "worried well"—people suffering

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from minor psychological problems or acute disorders such as depression—rather than those with chronic severe illness. The worried well were more responsive to treatment and better able to pay.

Untreated chronic patients, released in huge numbers during the 1960s and 1970s, drifted to SROs and welfare hotels. When the low-income housing stock dried up in the 1980s, the mentally ill migrated to the streets.

Jails and prisons have become the asylum of last resort for seriously ill patients who are denied medical treatment

By the early 1970s, virtually all of the untoward consequences of deinstitutionalization were already well in evidence: a dramatic increase in the rate of violence by the mentally ill, disorder in local communities, the absence of community care, and an increased burden on the criminal justice system from what Torrey has called "the criminalization of psychosis." Jails and prisons have become the asylum of last resort for seriously ill patients who are denied medical treatment.

Yet New York continued to empty its hospital beds. The state hospital population was cut from 80,000 in 1967 to 33,000 in 1975. Four years later, 16,000 former mental patients were living in New York City's SROs and welfare hotels, receiving no medical care. By 1974, 28 percent of discharged patients were being readmitted within six months for failure to take their medication. Yet in 1977, the state's Mental Hygiene Department reiterated its commitment to "letting its large institutions 'run down,'" with the intention of transferring the money saved to the counties. This "hospital dividend" never materialized.

To this day, Albany continues to empty its mental hospitals: According to Robert Spoor, spokesman for the State Office of Mental Health, the state plans to decrease the hospital census from the present 11,000 patients to 6,000 by the year 2000.

The dumping of patients is abetted by the diffusion of responsibility for their care. Torrey has written that the "convoluted array of federal, state, and local government programs [with fiscal responsibility for the seriously mentally ill] would make Rube Goldberg proud." The splintering of authority is even worse in New York, he said in an interview, "because the state and the city don't talk to each other." Torrey added that the "biggest issue for the [State] Office of Mental Health is how to shift costs to the Federal Government."

Lawsuits aimed at improving the conditions of mental hospitals have also created perverse incentives to dump patients onto the street. Since the 1970s, civil libertarians and advocates for the mentally ill have won a variety of consent decrees dictating minimum staff-to-patient ratios, standards for treatment, and financial liability for improper commitment. Regrettably but predictably, hospitals achieved the required staff-to-patient ratios not by hiring new staff but by indiscriminately discharging patients. They minimized the risk of lawsuits by not admitting patients in the first place.

Some of the doctors who pressed for deinstitutionalization in the early 1960s have since had second thoughts. In 1984, Dr. Robert Felix, who had been director of the National Institutes for Mental Health (NIMH) in 1963, acknowledged that "many of those patients who left the state hospitals never should have done so." Dr. Bertram Brown, another former NIMH executive, admits that "the doctors did not believe that community care would cure schizophrenia. . . . We knew that there [were] not enough resources in the community to do the whole job, so that some people would be in the streets . . . and questions would be raised about the necessity to send them back to state hospitals."

The Civil Libertarians

Most of the doctors who initially supported deinstitutionalization did so out of a humanitarian concern

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for mental patients who were suffering under atrocious conditions in state mental hospitals. But some theorists went much further: R.D. Laing, Erving Goffman, Herbert Marcuse, and Thomas Szasz taught that mental illness had no clinical reality, that psychosis was merely a "label" applied by society to certain "nonconformist" behaviors. "Where is the illness?" Szasz asked in a 1991 letter to the *New York Times*, and answered: "In the eye of the beholder—and the power of the definer. . . . 'Psychiatrists' prefer to treat diseases that do not exist."

The theories of Szasz and others were seized upon by civil liberties lawyers, who saw involuntary treatment of the mentally ill not as a paternalistic exercise of state power for a therapeutic end, but as a deprivation of liberty tantamount to incarceration.

"Mentally ill persons seemed particularly appropriate targets for a crusade against governmental power," writes Dr. Paul Appelbaum of the University of Massachusetts Medical School, a critic of deinstitutionalization. "The state was depriving them of liberty—with ostensibly benevolent aims, yet in conditions that belied the goal of treatment." The patient's welfare was not necessarily the chief concern of the libertarians either, however. "Lawyers are doing what they think is right in terms of civil rights, whether it is good for the person or not," the *Times* quoted Bruce Ennis, then a lawyer with the New York Civil Liberties Union (NYCLU), as saying in 1974.

The civil liberties bar succeeded in transforming the issue of commitment from a medical question into a legal one. The law had allowed involuntary commitment for patients "in need of treatment." Civil libertarians argued that the patient's "liberty interest" was of paramount importance: Unless someone was a danger to himself or others, he had a constitutional right to be left alone. In 1975, the U.S. Supreme Court accepted this argument, ruling that "dangerousness to self or others" was the only constitutionally permissible criterion for involuntary commitment.

Since commitment involves a deprivation of liberty, civil libertarians argued, patients who con-

MATTERS OF FACT

Estimated proportion of NYC's homeless who are mentally ill: **33%**

Proportion of mentally ill homeless who have a history of substance abuse: **68%**

Estimated proportion of U.S. homeless who are veterans: **1/10 to 1/3**

Proportion of VA hospital beds that are for psychiatric patients: **40%**

Number of patients in public mental hospitals nationwide, 1955: **552,150**

Number in 1984: **118,647**

Estimated number of prison and jail inmates suffering from psychosis nationwide, 1990: **100,000**

Number of patients hospitalized for psychosis, 1990: **68,000**

Number of psychiatric beds available in NYC hospitals in 1991: **1,164**

Number of patients brought to NYC hospitals by police during 1991: **14,378**

Proportion of former NYC mental patients whose whereabouts are unknown six months after release: **38%**

Size of New York State's mental health budget, 1987: **$2,500,000,000**

Per capita New York State spending on mental health, 1987: **$140**

Ranking of New York among states in per capita mental health spending: **1**

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test their commitment deserve procedural protections comparable to those afforded criminal defendants. Patients in commitment hearings now have the right to an attorney at public expense, the right to a jury if requested, a high standard of proof ("clear and convincing evidence"), and the right to cross-examine witnesses. Some patients have even successfully contested the introduction of their medical and criminal records on the grounds that such information is prejudicial.

Mental patients' most controversial right is the right to refuse treatment: A doctor can medicate a patient over his objection only by convincing a judge that the patient is incompetent to make his own treatment decisions and that the requested course of treatment is necessary and medically sound. Dr. Gregory Bunt of the Manhattan Psychiatric Center calls the right to refuse treatment "a terrible, terrible law, which [does its] greatest disservice to the patients themselves. An untreated, uncontrollable patient infringes on the rights of other patients."

All the state hospitals, and many other hospitals in the New York City region, have courtrooms on the premises for commitment and medication hearings. Patients in hospitals without courtrooms who wish to contest their doctors' decisions must be transported to a hospital with a court, along with their medical team, their attorneys, and their hospital's attorneys.

The impetus behind judicial oversight of medical decisions regarding the mentally ill is suspicion of medical authority. Robert Levy, an NYCLU attorney best known for his role in the "Billie Boggs" case (in which a mentally ill homeless woman challenged the city's efforts to treat her), says that because "doctors are not independent evaluators," treatment decisions with which the patient disagrees must be subject to judicial review. Levy likens psychiatrists to police investigators. "By virtue of making an investigation, they have a point of view." That a psychiatrist's "point of view" is based on medical expertise seems not to matter.

If doctors' professional "biases" render their decisions suspect, certainly the judges who oversee those decisions suffer from no such handicap. In a recent court session at Bellevue, Judge Bruce Wright denied two doctors' requests to administer antipsychotic medication over their patients' objections. One of the patients was an old man who had lived on the streets around Columbia University for some thirty years. Because of paranoid delusions, he was refusing treatment for a festering ulceration from an earlier cancer operation. The other patient had repeatedly sent death threats to Joan Rivers and accosted her outside her studio. He had also threatened to kill people on his ward. Judge Wright needed to have the term "akathisia"—one of the most common side-effects of neuroleptic drugs—defined for him. Yet despite his obvious lack of medical knowledge, he was given the final say over the patients' course of psychiatric treatment.

Patients' lawyers often question the amount of time the treating doctor has spent with the patient. Yet the judge who makes the final decision has invariably spent far less time with the patient, and never one-on-one but only in the courtroom.

Doctors find the judicial process time-consuming and frustrating. The hearing and transportation to and from court can easily consume a day. Many doctors, according to Bunt, simply give up on the process: "They conclude, 'My judgment is not respected; it seems futile to go back and be made to look like an adversary.'"

A further paradox in the legal model of mental illness is that by making "dangerousness" the sole basis for involuntary commitment, the courts have placed commitment on the most medically tenuous ground possible. The prediction of dangerousness is "the most problematic [evaluation] in psychiatry," according to Dr. John Monahan, a psychologist and professor at the University of Virginia Law School. No one has been more vocal in pointing out the shortcomings of the dangerousness standard than the civil libertarians themselves: Psychiatry's record in predicting dangerousness, they correctly charge, has been weak. Furthermore, they argue, the standard is inconsistent with other principles of criminal

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justice: It is unconstitutional to confine dangerous but sane people until they have been charged with a criminal act.

In raising these objections, civil libertarians are arguing not for a more sensible standard of involuntary commitment, but for its outright abolition. Indeed, during the late 1960s and early 1970s, when New York's mental health reform legislation was being drafted, the NYCLU fought to do away with commitment altogether. It lost that battle, but, as the Hogue case demonstrates, it has largely won the war.

Fixing the System

Both supporters and critics of deinstitutionalization agree that the present situation is untenable. Not surprisingly, however, they disagree on the solutions. Despite a quarter-century of failure, supporters of deinstitutionalization still say, in effect, "Give us a little more time and a lot more money." The NYCLU's Robert Levy will not even discuss the possibility of using commitment more aggressively to remove dangerous individuals from the street until society offers "meaningful services in the community." Once the mentally ill "see that the services are helpful, they will accept them," he says. "Until we build the centers, we can't know how many will refuse."

E. Fuller Torrey and his colleague Dr. Sidney M. Wolfe rebut this argument. They have written: "The state can make the [outpatient] psychiatric services as attractive and convenient as possible, as recommended by civil liberties lawyers, but there will still remain a sizable hard core of individuals who refuse treatment because they believe that nothing is wrong with them. . . . The part of their brain which allows a normal person to check beliefs against reality is damaged and the only way they will ever be treated is involuntarily."

While it is unquestionable that better community services are needed, the argument that such services are all that is needed is not only false but dangerous, because it postpones confronting the real needs of a Larry Hogue and the community he is terrorizing. Hogue represents a significant minority of the mentally ill population for whom community treatment will never be feasible. These are the patients who, according to Dr. Paul Appelbaum, "decompensate rapidly on their own" by going off their medication, taking drugs, or both. Hogue's history of violence and the severity of his drug problem make him an unacceptable risk for the community.

According to Dr. Pawel, no responsible community service provider would take Hogue. Father Tom McVean, program director of the highly regarded St. Francis residency program, agrees. Though St. Francis takes the most impaired of the chronically mentally ill, it does not admit patients who are also addicted to drugs, because they are so difficult to treat. Hogue would have to be sober for six months before the program would consider him.

Based on personal experience, Dr. Mark Irwin Klein, a professor of clinical psychiatry at the University of California's Davis campus, rejects the argument that more money for community treatment centers is the answer for patients like Hogue. After completing his medical studies in the New York area, Klein went to Berkeley in 1974 to specialize in treating severely disturbed patients.

Unlike New York, Klein says, California in the 1970s had all the money and expertly staffed facilities the proponents of deinstitutionalization could have asked for. Nonetheless, Klein watched his patients go into a "downward spiral" as they learned to manipulate the system. They rejected placement in community facilities because they would have lost their eligibility for federal disability benefits. Instead, they lived on the streets, stopped taking their medication, and spent their benefit money on drugs or alcohol; when their money ran out, they typically would enter an acute-care hospital until the next check arrived. Today Klein sees many of his former patients wandering Berkeley's Telegraph Avenue, still psychotic and addicted despite tens of thousands of dollars worth of sporadic treatment.

Years ago, Klein says, one rarely saw the combined disorders of mental illness and drug addic-

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tion. "Social Security has ruined patients," Klein explains, by providing them with the money to buy drugs. He terms the current epidemic of drug addiction among the mentally ill "socially iatrogenic"—an iatrogenic disease being one caused by the treating doctor.

What Hogue and others like him need is a reconstruction of the "total-care institution" to provide true long-term care. Those who are so sick that they do not respond to less restrictive methods of treatment must be provided with institutional care, both for their own sake and for society's. The total-care institution serves as a locus of care and responsibility. Food, shelter, clothing, and treatment are provided by a single authority. Klein says institutionalizing Hogue would "keep him out of harm's way and prevent his further deterioration. When we find a real cure for schizophrenia, Hogue will be less deteriorated than if he were returned to the streets, and would be a better candidate for treatment."

To call for a return to involuntary commitment triggers fears of the "warehousing" of patients in the "snake pits" of the past. It is highly unlikely, however, that such abuses would be repeated. The mental health reform movements, including the civil liberties battles, have changed society's attitudes towards the mentally ill, and these new attitudes are reflected in regulations governing patient care. The oversight mechanisms currently in place are adequate to guard against negligence and abuse.

New York has 17 large hospitals upstate that have been all but mothballed, though none has actually been closed. These hospitals would be an excellent place to establish programs for mentally ill substance abusers. Such programs would be far less costly than conventional inpatient treatment, because their staffing requirements are lower. Bunt dismisses the likely objection that the upstate hospitals are too removed from the patient's "community." It is "leaving them in the community," where they can obtain drugs, that constitutes "neglect," Bunt says. Left to their own devices, "they will be devoured by their predators."

The standard for commitment must be changed as well. Peter Rossi, emeritus professor of sociology at the University of Massachusetts, Amherst, suggests changing the law to allow the commitment of people who are acting "in a bizarre or aggressive manner, are incoherent, or are neglecting to care for themselves." Such a change might ultimately require the Supreme Court to revisit its 1975 decision establishing the dangerousness standard. But in light of the accumulated evidence of nearly two decades of failed policy, there is reason to hope the court would let stand a more inclusive commitment law.

Changing the legal standard for commitment, however, will make little difference unless society can muster the will and the resources to provide long-term care for the seriously mentally ill. The Larry Hogue case "exemplifies the major difficulty of the mental health system: the belief that all patients can and should be released as soon as their symptoms abate," says Dr. Paul Appelbaum. Pawel agrees: "We do not really have long-term care available to anyone. We need to reform health care to make it a treatment system. Now we legislate everyone not treatable out of the system."

City Mental Health Commissioner Luis Marcos proposes giving the mental health system jurisdiction over drug addiction. The law should also be changed to give judges the legal authority to order patients back into drug treatment programs if they "elope."

In addition, the problem of unsupervised government benefits going to mentally ill drug addicts urgently needs attention. A mechanism must be established whereby doctors or social workers who realize that a patient is regularly using his benefit money on drugs could initiate an administrative investigation without violating doctor-patient confidentiality. If the patient is found to be abusing his benefits, a conservator would be appointed to manage them.

The proposal for a return to the asylum will meet with two predictable objections: financial and ideological.

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Cost comparisons generally show that institutional care is four times as expensive as community care. These figures, however, do not reflect the actual financial and social costs of the current system. The traditional gateway to the state hospital, the city emergency room, long ago reached a point of crisis saturation. Rather than treating a patient once and sending him through to a state hospital, the emergency room now sees him over and over: A recent study in the journal *Hospital and Community Psychiatry* documents a patient who has been hospitalized 120 times. The bottleneck into the state hospital system exhausts police resources as well. It is the police who transport the thousands of patients circulating rapidly and endlessly between the emergency room and the streets and who process them once they arrive at the hospital. And it is the police who must respond to the violence committed by people like Larry Hogue. Many of the mentally ill, moreover, end up in prison, a costly alternative to hospital care that restricts their freedom without helping their condition.

The most tragic cost, however, is borne by the residents of neighborhoods like the Upper West Side, who live in constant fear because their government is unable or unwilling to protect them. Lisa Lehr says Hogue's lawyer has told her that Hogue is "furious about all the publicity that he's been receiving." "I'm terrified that when he comes out, he's going to kill me," Lehr says. "I weigh 120 pounds; he's the one that's got all the crack coursing through his system." While Lehr may be tenacious enough to keep up the fight, many will no doubt follow the lead of the 16-year-old girl's family and give up on New York City. In comparison to these immeasurable costs, even the most labor-intensive treatment seems a bargain.

Civil libertarians will no doubt continue to oppose institutionalization on ideological grounds, oblivious to the toll the current policy is taking both on local communities and on the mentally ill. Commenting on the Hogue case, the NYCLU's Robert Levy blithely reminds the Upper West Side that "society can't eliminate risk."

David Rothman, director of the Center for Society and Medicine at Columbia University, takes a harsher approach, attacking the motives of those who favor institutionalization. He asks "whether the mental health system is capable of delivering humane care, let alone total supportive care. Where will the money come from? . . . From the community that had no empathy for [the mentally ill]?" "Apparently," Rothman sniffs, "we underestimated

Commenting on the Hogue case, the NYCLU's Robert Levy blithely reminds the Upper West Side that "society can't eliminate risk"

the great number of our fellow citizens who can tolerate the daily sight of pain without flinching."

Advocates like Levy and Rothman are increasingly out of touch, even with their natural political allies. The Upper West Side, after all, is a haven for progressive liberalism; it is only with great anguish and through bitter personal experience that its residents have come to criticize the excesses of organizations like the NYCLU. Given the horrors they have had to face, it is remarkable that they have any compassion left at all. Yet all of the community residents interviewed for this article expressed fear that Hogue was jeopardizing his own life by hurling himself into traffic. Andrea Kerzner-Torgovnik even worries that Hogue will cause her children to stigmatize all homeless people. "This bothers me, because the homeless need more sympathy."

It is difficult to avoid the conclusion that part of what has driven the dogged pursuit of a failed policy is the belief that communities disintegrating under the burden of violence and chaos deserve their plight. The result has been utter madness: a system that disregards the community's right to live free of violence and fear in favor of the "freedom" of potentially violent psychotics to refuse the therapeutic intervention they so desperately need. ■

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Simple Rules for a Complex Society: Redesigning New York's Zoning

Peter D. Salins

A document of Byzantine complexity, New York's zoning ordinance has become a major obstacle to the city's physical renewal. The ordinance has increased the cost of development, discouraged new housing construction, and created vast wastelands of unused space inappropriately zoned for manufacturing. Streamlining the regulatory process would improve the city's physical stock and the quality of life for its citizens.

With New York's economy stagnant and its citizens eager for changes that might revitalize the city, New York's leaders should take a hard look at one of the city's great planning innovations, the local zoning ordinance. A good zoning ordinance promotes the healthy growth and renewal of a municipality's physical stock—its homes and offices, stores and factories. But New York, the city that invented zoning in 1916, is today burdened with a zoning ordinance—enacted in 1961 and encrusted with thirty years and six hundred pages of amendments—that has become one of the chief impediments to the city's physical regeneration outside the prime commercial sections of Manhattan.

As with so many other instances of city regulation, New York's zoning regulation does both too much and too little. On the one hand, it is a document of staggering complexity, one that only lawyers and expediters can understand and interpret; it imposes great burdens on the city's planning and building department staff, and places enormous obstacles of time and cost in the way of all but the most routine residential development. On the other hand, development that emerges from this regulatory monster is condemned on all sides—by local communities, by environmentalists, and even by the architects and planners. This is true despite the resolution's detail, attempts at fine-tuning, layers of discretionary review, and community and watchdog group involvement. Moreover, the zoning law's idiosyncratic rules and procedures have made it possible for other, even more onerous regulations to stifle development further.

Regulation of any sort involves a trade-off: We give up economic efficiency in exchange for quality. New York's current zoning regime is hugely inefficient, violating the natural order of the city's land market, distorting property values, and indiscriminately redistributing property rights. But it does all this without making New York a better planned, happier, or more beautiful place.

With an economy battered by recession, the city should have a strong incentive to promote development by streamlining its regulatory system. And the renewal of New York's physical stock, especially housing, would help improve its citizen's quality of life.

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Zoning Against Harms

Until thirty years ago, zoning in New York worked quite well. The city's original zoning law, passed in 1916, was designed to prevent three kinds of harm: excessive density, the juxtaposition of incompatible activities, and the most blatant visual offenses. The ordinance placed limits on the height and use of new buildings and set up three different types of zones: residential, commercial, and unrestricted (manufacturing).

The 1916 ordinance embodied two important regulatory principles: "as-of-right" development and "hierarchical" zoning. Under as-of-right zoning, clear, objective criteria told developers what they could and could not build on a given plot of land. Development took place without the need for negotiation or discretionary review by city officials. Hierarchical zoning meant that activities were grouped into categories based on the "external costs" they imposed on their neighbors. Less harmful activities were always allowed in more permissive zones. A factory, for example, would harm the quality of life in a residential zone, and therefore could not be built there. But a house could be built in a manufacturing zone since it entailed no external costs. Homes, in fact, could be built anywhere in the city.

Zoning districts regulated the permitted uses of land, a building's allowable "bulk" (height and shape), and its position on the site. A building's bulk was determined by the width of the street and what was known as the "sky exposure plane"—an imaginary diagonal line that ran from the middle of the street to a point of predetermined height directly above the property line, then continued upward and inward. A building was not permitted to cross the sky exposure plane; thus, the allowable width was smaller on higher floors. This resulted in the architectural form known as the "wedding cake" that characterizes many New York skyscrapers built while the 1916 law was in effect. These buildings become thinner on higher floors, with staircase-like notches marking the progress of the sky exposure plane.

Bulk restrictions, like the segregation of commercial and industrial activity, were justified because they prevented public nuisances that might result from development. Tall, wide buildings would keep fresh air and sunlight from reaching the street, and overdevelopment would worsen traffic congestion. By concentrating on the amelioration of these specific harms, the original zoning resolution achieved its goal of ensuring that the city was developed in an orderly fashion, but it preserved a climate hospitable to development in general.

Zoning for Benefits

The city replaced its original zoning ordinance in 1961. Several factors spurred the approval of an entirely new regime of land-use regulation. Reformers, led by Mayor Robert Wagner, wished to remake the city through comprehensive government planning. They also feared unbridled population growth: The 1916 zoning ordinance placed so few restrictions on residential development that a population of 55 million was theoretically possible.

In addition, the reformers wanted developers to conform to the emerging architectural fashion of the time. Planners were deeply influenced by the Seagram Building, completed in 1958, probably the most celebrated New York skyscraper of the postwar period. Surrounded by an open plaza on Park Avenue, the Seagram Building reflected the "towers in the park" concept pioneered by the French architect Le Corbusier. While long used in the design of humble public housing projects, this concept had not yet been widely implemented in upscale commercial structures, since most private developers built to the property line in order to get the maximum allowable use of the land. Planners, critical of the monotony of Manhattan's wedding-cake development, instituted incentives in the new zoning ordinance for tall buildings set away from the street in landscaped public plazas.

The new law, then, reflected a basic change in what was expected of zoning. It was no longer enough merely to prevent specific harms to the public; the 1961 ordinance was designed to secure particular benefits. Toward this end, the new zoning resolution departed from the old one in two

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fundamental ways: It did away with hierarchical zoning and it greatly weakened as-of-right zoning.

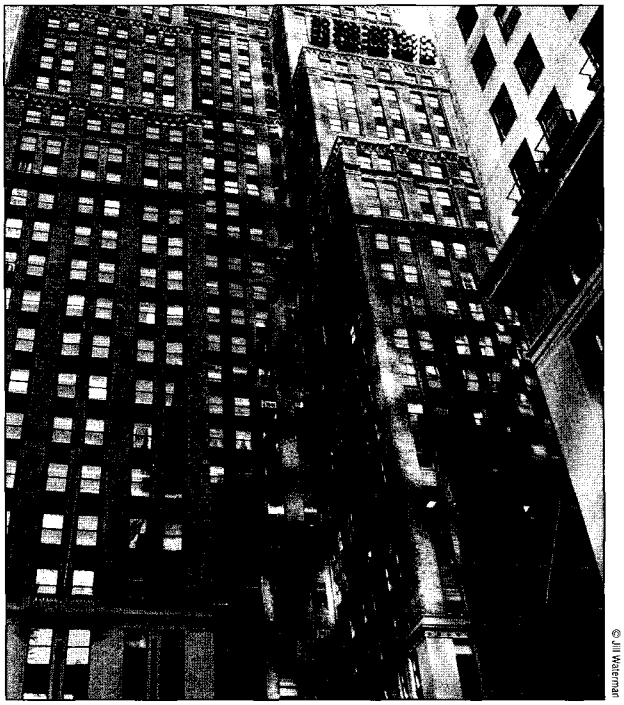
Exclusive Zoning

The 1961 zoning ordinance abolished hierarchical zoning, restricting each parcel of land in New York City to a particular range of uses. No longer were manufacturing zones open to all uses, for example; residential and most commercial activities were forbidden except in their own and some multi-purpose zones. This policy has distorted patterns of development and, by limiting housing construction, has contributed to New York's housing shortage. By 1976 the pace of new housing development had slowed to fewer than ten thousand units each year.

One of the planners' goals in scrapping hierarchical zoning was to preserve New York's manufacturing base by reserving large sections of the city for industry. In the years following 1961, however, it became clear that the city was overzoned for factories. Manufacturing employment in the city dropped by 58 percent between 1950 and 1983, and the multistory buildings left vacant by the departure of manufacturing firms did not meet the needs of newer industries, which require large, one-story spaces on open sites. Thus, exclusive zoning helped create vast wastelands of underused industrial space in areas such as SoHo, Red Hook, and Long Island City.

Under hierarchical zoning, these areas would have been revitalized through conversion to residential or commercial use. To some extent this is what happened, despite the zoning law. During the 1960s and 1970s, many property owners in manufacturing districts rented space illegally for residential or office use. The practice was so widespread in lower Manhattan that in 1976 the city legalized the residential use of lofts in SoHo and Tribeca, mandating that their owners bring them into compliance with housing codes.

But rather than open up manufacturing zones to residential development, the city actually tightened its land-use controls, creating a new bureaucracy called the Loft Board and limiting occupancy in most loft apartments to "artists in residence." The law requires would-be loft-dwellers to prove their credentials and secure an artist's license from the city's Department of Cultural Affairs. The city's zeal to micromanage the use of land led it to create a system resembling a medieval craft guild.



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An example of the "wedding cake" skyscraper that was a typical product of the 1916 zoning ordinance.

Abandoning As-of-Right

The 1961 ordinance has been continually amended since its adoption, reflecting an impulse to fine-tune urban development by anticipating every possible contingency. From the outset, it was far more complex than the 1916 ordinance, which had provided for only five different types of districts. The new law established ten different residential, eight commercial, and three manufacturing districts, with varying density restrictions creating some 125 different zones and a theoretically infinite range of other possibilities.

The density restrictions were based on a new regulatory device known as the "floor-area ratio," a measure of the usable floor space within a building divided by the size of the lot on which it is built. The floor-area ratio effectively supplanted the sky exposure plane as the basis for determining how large a building

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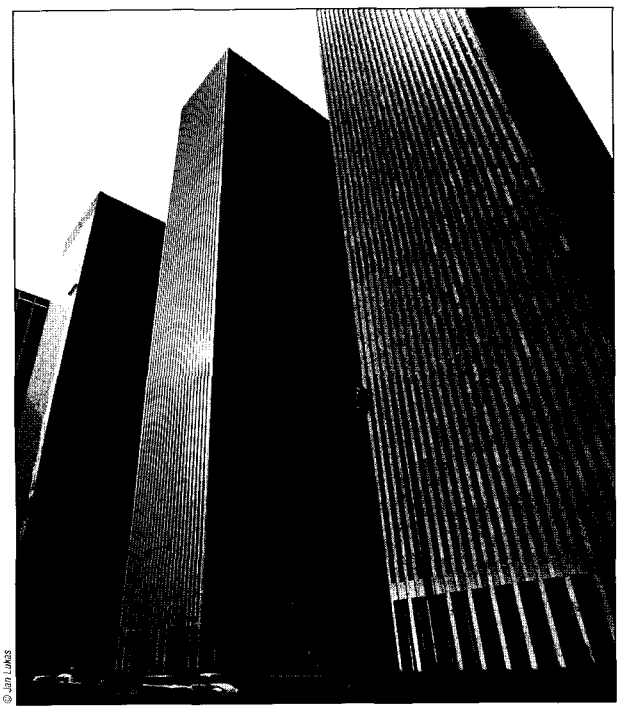

© Jon Lukas

The 1961 zoning ordinance deliberately encouraged developers to build large towers surrounded by open plazas, like these buildings on Sixth Avenue.

could be. The effect of the density restrictions was, in most cases, to reduce the allowable size of a building on a particular lot. But this was offset in part through the use of "alternative zoning options," which allowed developers to build larger structures if they provided plazas (and, later, other amenities) in exchange.

The stricter density restrictions reflected concerns about overcrowding, traffic congestion, and the like. But the introduction of alternative zoning options reflected the new tendency to use zoning as a tool to extract particular benefits from developers. Ironically, the very patterns promoted by the initial 1961 zoning incentives are now out of architectural fashion. For example, Sixth Avenue in midtown Manhattan, the very epitome of post-1961 development, is now widely regarded as a sterile cavalcade of high-rise boxes. Thus, among the many amendments to the 1961 ordinance are some encouraging a return to 1916-style structures.

In fact, these and countless other amendments have moved the city ever further from the straightforward as-of-right system that prevailed before 1961. To accommodate a variety of unique local conditions, 37 "special districts" have been created, each with its own intricate set of rules. Unhappy with the visual consequences of the original development options, planners added complex "contextual" rules and incentives to ensure that new buildings fit in with older ones. Moreover, zoning restrictions are often more lenient if the developer also builds low-income housing or implements "housing quality" features that reflect current fashions in urban design.

All these changes have moved the city increasingly toward a regime of discretionary review, in which city planners must review and approve the way a developer uses the options and exceptions that have been added to the original code. Much of this discretion is used to grant developers zoning concessions in exchange for specific public amenities: not just plazas and arcades, but expensive benefits such as subway improvements, theaters, and low-cost housing. This "zoning for sale" is a game only a handful of well-funded developers, flanked by costly lobbyists, lawyers, and expediters, can play. The benefits to the city are questionable: There is no economic test of the costs or benefits of such trade-offs, and the practice distorts the price of land by encouraging speculation based on the possibility of negotiating zoning concessions at some later date. Moreover, for the city to make such trades suggests that the supposedly critical goals of zoning are not really important, since they can be waived for a price.

The quest to custom-tailor land-use regulations is an endless one. Even as the zoning ordinance has grown increasingly complex, it can never quite custom-tailor enough, so planners must give themselves discretion to approve or reject particular projects on a case-by-case basis. Zoning, which was meant to foster orderly and predictable development, has instead become a chaotic, capricious process that deters the development and renewal of the city.

The inhibiting effects of the zoning ordinance have been compounded by three other regulatory schemes: the environmental review process, the

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Unified Land Use Review Process (ULURP), and the landmarks law.

Environmental Review and the ULURP

New York's current zoning law has proven to be so restrictive that more than half of all new construction in the five boroughs, and almost all in Manhattan, requires some kind of exception to the established as-of-right rules. Under present law, any project that requires such exceptions must go through both environmental review and the Unified Land Use Review Process.

Environmental review is mandated by both state and city laws. Traditionally, the process has been concerned with genuine environmental issues such as air and water pollution. But in recent years, the definition of "environmental impacts" has expanded to include such issues as traffic congestion, urban density, aesthetics, and shadow-casting—precisely the sorts of things that zoning is meant to regulate. Since zoning has lost its focus on controlling these harms, the environmental review process has filled the void.

Unlike pollution, however, these extra-environmental urban impacts cannot be mitigated at the source, for they are primarily the result of the city's aggregate demographic and economic characteristics. The only way for the city to control urban density, for example, would be to adopt a policy of actively discouraging economic growth. Responsible zoning, on the other hand, merely assures that high-density uses will not be permitted in low-density neighborhoods where they would harm the quality of life.

After the environmental review has been prepared and approved by the City Planning Commission—which can take as long as two years—the developer must then go through the ULURP. This eight-month process begins with hearings by the relevant community boards, which make nonbinding recommendations to the City Council. The proposed zoning changes must then be approved by the City Planning Commission, the City Council, and the mayor.

Interest group challenges are common, during both the environmental review and the ULURP. Political sensitivity invariably colors the ultimate disposition of any proposal by the planners, the mayor, and the Council. No large, economically vital development project can escape running this gauntlet, and countless projects never even make it to the planning stage because developers cannot afford the costs, both in time and money, of this tortuous process.

Landmarks Preservation

The city's Landmarks Preservation Act was passed in 1965 in response to the demolition of the grand old Penn Station train terminal. It established an 11-member Landmarks Preservation Commission that can designate as a landmark any structure more than thirty years old that has "a special character or special historical or esthetic interest." The commission also has the power to designate entire areas of the city as historic districts. The City Council can, but rarely does, overrule the decisions of the Landmarks Commission. Between 1965 and 1984, the commission landmarked 690 individual buildings and 44 historic districts containing some 16,000 buildings.

Once a property is declared a landmark, its owner cannot make even minor alterations, such as installing new doors or an air conditioner, without the permission of the Landmarks Preservation Commission. To build on a vacant lot in a historic district, a developer must certify that the architectural character of the district will not be harmed.

To some extent, widespread landmarking has been a response to the architectural damage done by the 1961 zoning code. For example, the provisions of the zoning law that promote open space have upset the architectural character of several neighborhoods by breaking up the straight lines of the avenues and encouraging the development of unusually tall and thin towers that are out of place with their neighbors. The magnificent vistas of Park and Fifth avenues, largely created by the 1916 zoning ordinance, are threatened by the present code. Under current law, the most expedient way to preserve the character of these neighborhoods is to have them declared historic districts.

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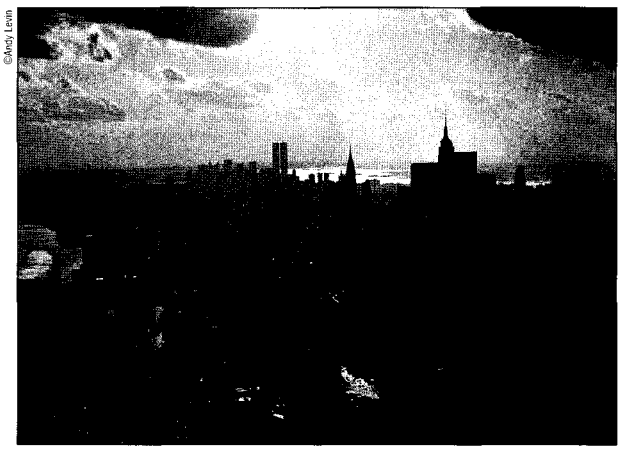
The Landmarks Commission has gone far beyond its original mandate to preserve historic structures. This was most strikingly illustrated in 1981, when the commission created the Upper East Side Historic District, which encompasses some sixty city blocks containing 1,044 individual buildings in upper Manhattan. The justification for a historic district was flimsy: Most of the area's historically significant buildings had already been landmarked, and the district did not constitute a homogeneous area of a unique building style. Indeed, in its designation report, the Landmarks Commission noted the *eclectic* character of the area's buildings, citing some 45 different architectural styles. The primary effect of the designation—and perhaps its primary purpose—was to bring new housing construction in the area virtually to a halt.



Needed: A New Zoning Law

There is a widespread consensus that New York's current land-use policy is not working. In 1991, I was among a group of experts, representing a variety of viewpoints, who were asked by the City Planning Commission and the metropolitan chapter of the American Planning Association to submit proposals for reform. I proposed that we scrap the 1961 resolution, including all its subsequent amendments, and start over.

Starting over does not merely mean writing a new zoning resolution. It means not making the same mistakes New York made in the aftermath of adopting its earlier zoning codes. In both 1916 and 1961, the city zoned in response to a particular set of contemporary concerns and according to a few simple concepts. But in the decades following the passage of each ordinance, the city's planners tried to adjust the zoning resolution to address dozens, even hundreds, of second thoughts, unique situations, and new concerns—concerns that zoning is ultimately unable to satisfy. To develop a new zoning ordinance that avoids this pitfall, we must follow three simple rules.

- First, *trust the market.* This means, first and foremost, that the primary purpose of zoning should be to prevent development from imposing specific harms, rather than to force the creation of particular benefits. To put it another way, the proper purpose of zoning is to alleviate particular market failures, not to supplant the market as the mechanism for determining the general direction of the city's development.

The well-understood laws of regional and land economics, when allowed to operate with minimal regulatory restraint, can usually create economically beneficial, consumer-responsive, attractive, and orderly development patterns. The canyons of lower Manhattan, the city's skyline, and the charming brownstone neighborhoods of Brooklyn are all products of the market, only modestly shaped by zoning. The same is true of humbler but pleasant environments such as the tidy neighborhoods of one- to three-family homes in Queens and the mid-rise apartment blocks of the Bronx.

Zoning should no longer be used to advance ever-changing urban design fashions, secure public amenities, extract subsidies for housing, or implement a "comprehensive plan." New Yorkers have often come to regret the "benefits" produced by post-1961 zoning. Plazas, arcades, and other physical improvements have been visually and functionally disappointing. Low-income housing and other social welfare benefits have proven so costly as to

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Lower Manhattan, 1776

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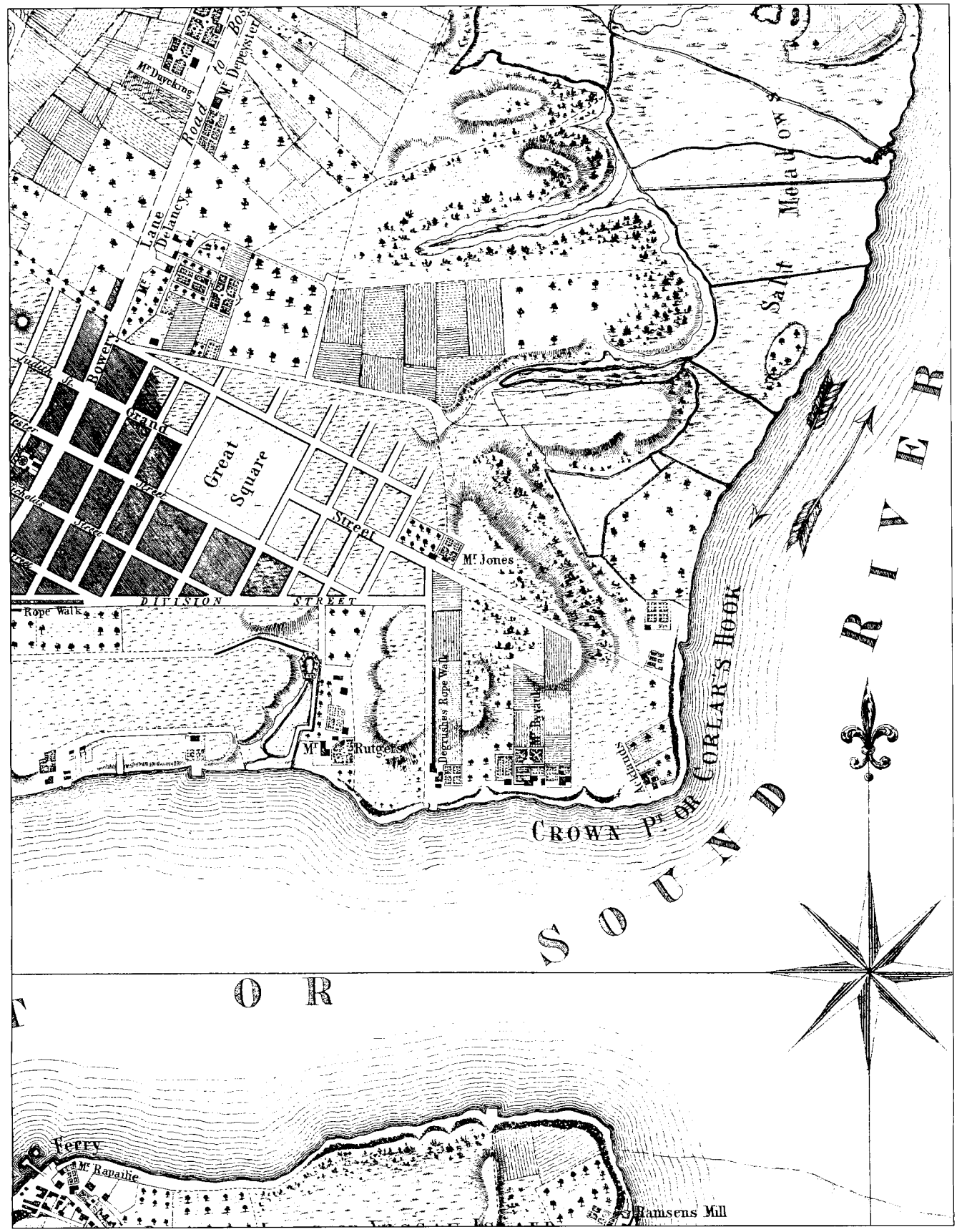

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outweigh the value of the concessions developers receive in exchange. Thus, most projects that depended on them have been doomed.

And these benefits have not been free to the city. The occupancy of residential and commercial space has been made more expensive for all the city's households and businesses. Thus, zoning has functioned as a hidden and insidious tax on development and land. But unlike a system of open taxation, its effects are neither readily apparent nor publicly debated.

If zoning once again focused on the prevention of particular urban harms, such considerations could be removed from the environmental review process. In fact, I would go so far as to propose the outright elimination of environmental impact assessments as they apply to particular structures. Instead, the process should evaluate the environmental effects of specific activities (including those of the government) that contribute to measurable environmental degradation.

The mandatory preservation of landmarks, and especially of entire districts, should be eliminated as well, for landmark preservation is a costly benefit that should be outside the domain of land-use regulation. We should maintain the landmark designation process, but the preservation and maintenance of designated sites should be voluntary for private owners. If the city, or a nonprofit group, wishes to preserve a threatened structure, it should pay the for the privilege.

Some critics of New York's development policies argue that a call for market-oriented land-use policies is misguided, that the problem is precisely that New York's planners bend too much to market forces. But this is simply not the case. It is true that when market forces are very powerful, as they were in midtown Manhattan during the 1980s, regulators will eventually respond to them. But elsewhere in the city, especially in the outer boroughs, zoning has thwarted the market in a number of important ways. The zoning map has many outdated district boundaries and designations; many commercial districts have unrealistically low density ceilings; industrial areas go to waste as the city's manufacturing base shrinks; and residential areas artificially restrict dwelling types.

• Second, *keep regulations simple, flexible, and predictable.* The present zoning law consists of 125 regular district categories, 37 special districts, 20 or so regulatory variables, dozens of formulas and calculations to determine how the rules apply to specific structures and sites, and myriad provisions for negotiation and discretion.

My proposal calls for a radically simplified system, with 18 district categories, no special districts, about a dozen regulatory variables, a few simple calculations, and no exceptions except when approved by the Board of Standards and Appeals or by the courts.

Zoning must, however, be flexible enough to accommodate changes in development patterns. Planners and other public officials cannot be expected to predict future trends in the city's development, demographics, and infrastructure. The answer is to restore hierarchical zoning. My proposal ranks zones in a hierarchy of nuisance and density, with single-family homes on large lots at the top, and large factories and other noxious uses at the bottom. Under the proposal, one could always place a higher-rank activity in a lower-rank zone.

Thus, high-density commercial and residential activity could immediately move into Manhattan's restricted manufacturing zones such as the garment district, and much vacant manufacturing land in the outer boroughs could be developed residentially. This might create some messy, short-term juxtapositions of activity or hasten the decline of some established manufacturing complexes. But such effects, if they do materialize, would be a small price to pay to achieve a zoning framework that can accommodate almost any volume or character of future development and rebuilding.

• Third, *once we write the rules, leave them alone.* Zoning rules should be applied, on an as-of-right basis, with absolute consistency to all development within identical zoning districts. We should return to a regime in which virtually all development (except on city-owned or waterfront property) can take place as-of-right with no discretionary review, except for appeals. Indeed, zoning compliance should be so simple and definite that it can be monitored by clerks in the building department.

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This principle has been embodied in the zoning ordinances of countless American cities. Applying it to New York would mean no more special districts, no more site-specific amendments, no more discretionary reviews, and no more site-specific bargaining. It would also obviate the need for the ULURP, which in combination with environmental impact assessments constitutes the most burdensome aspect of New York's discretionary zoning procedures.

Planners and community advocates can be expected to object that the city's growing complexity requires more regulatory detail and more discretion, and that what one critic calls "one size fits all" zoning cannot work in New York. But it is precisely the city government's tendency to micromanage that poses the greatest obstacle to sensible development. If we can write regulations that are open-ended and flexible enough to accommodate change and diversity, we can live with a zoning resolution virtually unamended for perhaps half a century.

Making the Change

It took twenty years to develop the 1916 zoning ordinance, and a decade of discussion before its successor was adopted. Changing the zoning law again is bound to be a contentious and arduous undertaking. Still, there are ways to minimize the obstacles.

To begin with, the process of defining the rules of zoning must be separated from the designation of particular districts. Developing the ordinance itself would likely be far less contentious than deciding the fate of particular areas of the city. Thus, I suggest that the City Planning Department begin working in consultation with its borough offices, the borough presidents, and professional and civic organizations to establish the basic zoning concepts. Once this tool kit of regulatory devices is accepted by all concerned parties and the political process, it would be definitive in determining the nature of zoning districts and the aspects of development to be regulated.

The district mapping itself should be—as it was not in 1916 or 1961—highly decentralized, with the greatest possible degree of citizen participation. The primary responsibility for district mapping should rest with the borough presidents, working with their community boards and the borough offices of the Planning Department. Community districts should have a strong voice in the process, if not an outright veto over it, and zoning district boundaries should be coterminous with those of community districts.

I foresee two problems with delegating districting decisions to the boroughs and the community boards. One is that the most prominent and symbolically important parts of Manhattan—the "visitors' New York"—belong to the entire city. Their fate should not be decided by local residents alone. Therefore, this core of the city—Manhattan below 96th Street, minus the Lower East Side—must be zoned with citywide interests in mind; its district mapping should be turned over to a panel with representatives from all five boroughs.

The other problem is that many local communities reflexively oppose development and would either sabotage the liberal provisions of the new zoning law or attempt to defeat them by mapping too restrictively. To overcome this tendency, borough and community district residents must be given a stake in new development. What better way than to turn over a large share of the property tax base to the boroughs to pay for the delivery of basic municipal services? To decentralize this incentive further, the boroughs could turn over half the revenues generated by new development to the community districts, to be used to supplement or enrich their own service delivery. Thus, we could harness the same economic dynamic that animates zoning decisions in the suburbs, where the impulse to curtail development is offset by the desire to expand the local tax base.

If New York is to remain a vibrant, world-class city, it needs a new zoning ordinance—one that protects the public from harms without unduly constraining development, one that gives local communities both a strong voice and an incentive to permit sensible development, one that does not overreach by attempting to impose particular architectural fashions or social benefits. Zoning in New York should serve, as it does virtually everywhere else in the country, to encourage rather than constrain the natural development and renewal of the city. ■

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Sue City: New York's Stake in Lawsuit Reform

Walter K. Olson

Taking New York to court has become a growth industry: The city spends more on personal injury claims than it does on parks and libraries combined. Litigation reform could painlessly save the city tens of millions of dollars each year.

New York City's estimated payout last year on personal injury claims, $229 million, is a striking figure even in a town known for big numbers. It's more than the city spent on parks and libraries put together, or on district attorneys and the probation department combined. To use a different comparison, New York City now expends as much on tort claims as its personal income tax would raise from a community the size of St. Louis.

City Comptroller Elizabeth Holtzman's most recent annual study of municipal claims makes it clear that litigation has become, in and of itself, an important contributor to New York City's budget woes. Sensible lawsuit reform, thus far blocked in Albany, could provide the city with enormous savings without costing upstate taxpayers a dime and without denying reasonable compensation in cases of genuine merit.

New York City's experience is of wider significance as well, as a reality check in the ongoing national debate over legal reform. Is litigation on the rise, burdensome to society, and often productive of injustice, as some of us have argued? Or is it relatively stable in volume, easily absorbed into institutional budgets, and mostly rational in outcome, as some lawyers and academics have claimed? The New York record sheds light on the answers.

Mapping the Sidewalks

Data on the number of claims the city pays in a given year can be misleading. They can count a big, complicated suit as if it were a routine $2,000 slip-and-fall. The raw numbers on settlements and verdicts do, however, reveal one interesting trend. As Figure 1 shows, they shot up from 1979 to 1981 but then plummeted, so that by 1991 they were barely above their 1977 level. The boom and bust arose from claims over allegedly defective sidewalks and roadways, so-called pothole cases. These soared, then plunged after the passage of a 1980 law providing that the city would be liable only for road and sidewalk defects it knew about.

What happened next is a tribute to the determination and self-interest of New York's trial lawyers. They set up the Big Apple Pothole and Sidewalk Protection Corporation to comb the streets for visible defects which could be plotted on a map and presented to the city as legal notice (and kept for handy reference in client interviews). After bot-

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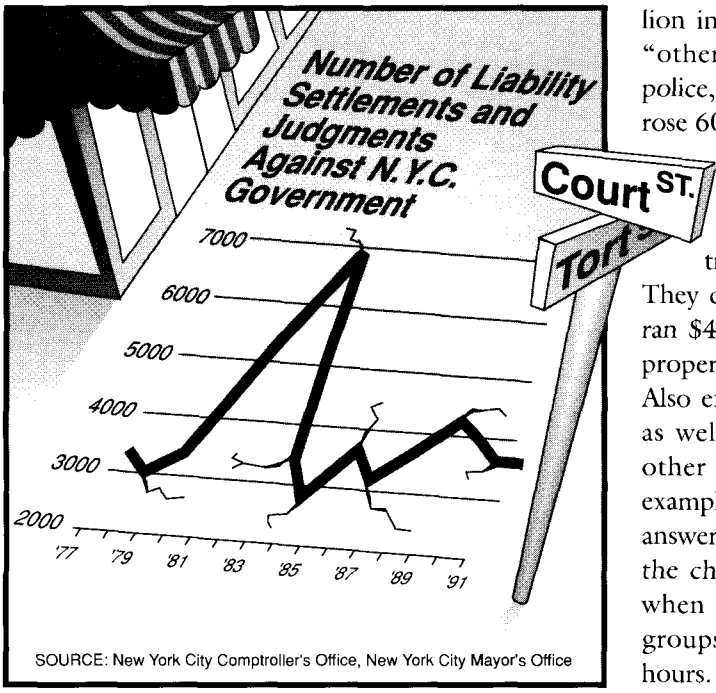

SOURCE: New York City Comptroller's Office, New York City Mayor's Office

toming out in 1984, pothole claims began surging back. Other claims rose modestly during this period.

Data on money flows provide a far better indication of litigation's impact. Here, as Figure 2 shows, the upward trend has been steady and impressive. Between 1978, a low year, and 1991, outlays rose 329 percent after adjusting for inflation. The projected figure for 1992 is $223.1 million—55 percent above the sum for 1982, a very high year.

A few cautions are in order. The low figures of the late 1970s might have reflected a policy of stalling so as to push fiscal damage into later budgets, while the early 1980s payout figures might have been artificially inflated by a process of "catch-up." The same sort of maneuver might explain the sequence of high-payout 1985 after low-payout 1984.

Even so, the surge in volume is unmistakable. It emerges even more clearly if one holds pothole claims aside. These claims, curbed at least for a while by the new law, declined by 36 percent in inflation-adjusted dollars from 1982 to 1991. Meanwhile, malpractice claims almost exactly doubled, to $56 million. (The 1977 figure had been a mere $7 million in 1991 dollars.) And the catchall category of "other" claims, such as those involving schools, police, parks, and city-owned vehicles and buildings, rose 60 percent in real terms over the same ten years, and has more than tripled since 1977.

Useful benchmarks though they are, these figures fall far short of measuring the true cost of municipal liability to city residents. They don't count Transit Authority payouts, which ran $45 million last year, or outlays for claims over property damages, contract disputes, and the like. Also excluded is the cost of the city's legal defense, as well as the burdens placed on city employees other than lawyers: Doctors, to take an obvious example, can invest a great deal of time and energy answering suits. Nor do the figures take into account the chilling effect on the provision of services, as when city hall, wary of liability, tells community groups they cannot use vacant city facilities after hours.

"Bad Baby" Lawsuits

One-third of the city's payouts, up from one-seventh in 1978, derive from claims of medical negligence. The lawyers who file such suits have been on a roll for a long time: A few years ago Albany reported that medical payouts in the state had risen by 30,000 percent in nominal dollars since the 1950s. In 1987 more than twice as many malpractice suits were filed against the New York City government as against the entire medical profession in Japan.

Amid constant reports of chaos and worse in city hospitals, it would be easy to assume that these payouts, costly though they are, are probably well-founded. Indeed, a much-publicized Harvard study of New York hospitals found that around 1 percent of hospital admissions in the state led to some sort of negligent harm, and that most injured patients did not file claims. But the Harvard study also reported, amid far less publicity, that in the substantial majority of cases where patients did file suits, experienced reviewers could not find negligence.

A huge share of the city's malpractice payouts, it turns out, go for a single category of case: "bad baby" suits alleging brain damage to infants.

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(Reports from elsewhere in the country confirm that this pattern is not unusual.) Estimates from Holtzman's office show payouts of at least $38 million for bad-baby cases in the obstetrics area alone in 1992, up sharply from $21 million in 1990 and half the $76 million overall projection of malpractice payouts this year. Of the 16 medical claims that won more than $1 million in 1991, 12 involved infant brain damage. (Two others alleged adult brain damage, and one each paralysis and wrongful death.)

A child suffering from cerebral palsy or mental retardation can tug at anyone's heartstrings, including jurors', and some lawyers avidly pursue such clients. In 1985 a former lawyer testified that he paid staff members of rehabilitation centers up to $2,000 to provide him with confidential files on children with cerebral palsy, then passed the names on to more than twenty law firms who solicited families as clients.

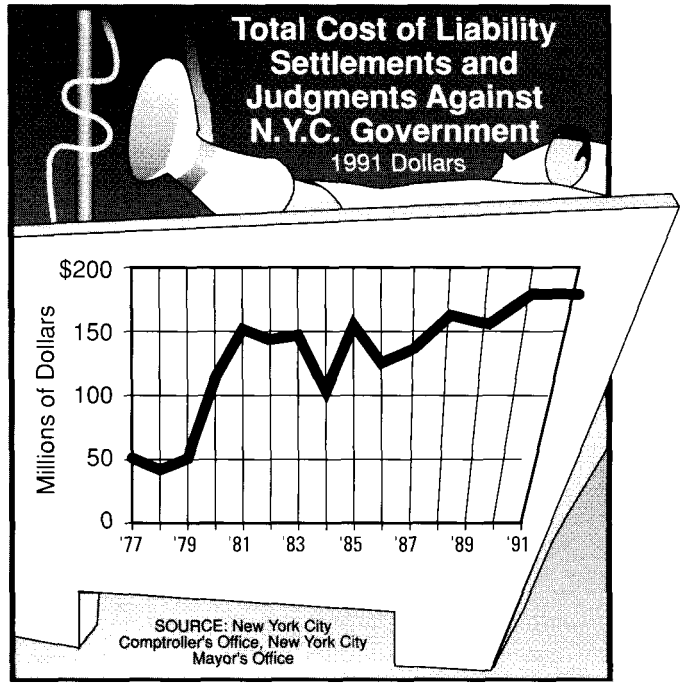
Plaintiffs' lawyers have plenty of theories as to who is to blame for such conditions. Most commonly, they blame obstetricians for failing to use electronic fetal monitoring (EFM) devices during delivery—or, if they used EFM, for failing to read indicators properly—and for failing to perform a caesarean section on the mother, or failing to do so quickly and skillfully enough. Neurological deficits often manifest themselves some time after birth, and some of these are tied in court complaints to medical care or vaccinations administered in an infant's first months. One big 1991 case ($1.5 million) blamed cerebral palsy on improper emergency-room treatment of a seven-month-old, and another ($1.25 million) attributed severe brain damage to the side effects of immunization at a city health clinic.

New York City has paid out huge sums, far exceeding $100 million, on such theories. But there is, to say the very least, grave scientific doubt about most of them. In a comprehensive report three years ago, the National Institute of Medicine quietly but devastatingly rejected the leading bad-baby theories.

The "current medical liability crisis is epitomized by the frequency with which obstetricians are being sued because the birth of a baby with brain damage is alleged to be the result of malpractice," the institute declared. Liability fears, the institute found, have contributed to doctors' continued use of EFM and to a persistent rise in caesarean section deliveries.

"Yet though the causes of neurological impairment in infants are largely unknown, birth-related events do not appear to be strongly implicated." For example, analysis of birth data has "found no factor arising in labor or delivery to be a major predictor of cerebral palsy."

EFM, though costly and intrusive, has shown "no demonstrated benefit" in this area. Even experienced doctors cannot agree on how to read the fetal health data it generates, which ensures that the conduct of presiding doctors can be second-guessed later in court. It continues in use even though "for almost a decade randomized clinical trials have failed to demonstrate its efficacy. The incidence of cerebral palsy, still popularly and erroneously believed by many to be the result of fetal asphyxia, has not been reduced by EFM." Nor are caesarean deliveries underused, as lawyers have argued so successfully in court; in fact, they are shockingly overused. The monetary cost of EFM and related caesareans may top $750 million a year nationwide,



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the institute said; and of course there are much worse than monetary harms as well.

Other research has tended to calm earlier fears that vaccination may be an important contributor to brain damage. ("Whooping Cough Vaccine Found Not to Be Linked to Brain Damage," the New York Times reported in 1990 about the best-known of such controversies.) Yet lawyers continue to press suits on all these theories. Each jury is a new factual authority, and under current rules of scientific evidence, as Peter Huber notes in his book *Galileo's Revenge*, lawyers are free to introduce testimony from experts whose views diverge from the scientific mainstream, and to cash in on verdicts based on that testimony.

"Let the Government Pay"

Most jurors try to set aside emotion while threading the bewildering maze of facts, but there's no denying that juries come out in very different places after hearing similar stories. The average jury award in the Bronx is reported to run $1.2 million, double the rate in adjacent Westchester. An internal city report a few years ago found suits against the city with Bronx venue brought twice the amount of those filed in Brooklyn and Queens and two-and-a-half times those in Staten Island. One result, says former city Corporation Counsel Victor Kovner, is "blatant forum-shopping" as plaintiffs' lawyers seize on any excuse to get suits into a favorable borough.

Although New York is self-insured, so that awards come directly out of tax revenues, city hall can seem like a distant and impersonal deep pocket to many residents. It's not hard to view personalized medical tragedies in the same way a talk-show caller is supposed to have described the savings-and-loan bailout: "I don't think the taxpayer should have to pay for this sort of thing. I think the government should pay for it."

New York City officials say they sympathize with injured plaintiffs and are willing to pay in a wide range of cases. But they want a system where payouts are more predictable, and where less money is raked off by middlemen. They've proposed transferring suits against the city from the general state

THOSE CRAZY CASES

In recent years New York City juries have voted:

- $9.3 million to a man who fell on the subway tracks while inebriated and lost his left arm. Another track totterer was voted $6 million, while a would-be suicide who jumped on purpose got $1.2 million after appeal.
- $9 million to a plaintiff shot and wounded at a social gathering by an off-duty police officer. The officer claimed he had been cleaning the gun, and the jury found the act to be within the scope of the officer's employment.
- $4.3 million, upheld on appeal so far, to a criminal shot by police after taking part in the brutal mugging of a 71-year-old man on a subway platform.
- A million dollars, reduced to a quarter of that on appeal, after deciding that the city's highway and signs were more to blame for a fatal crash than a drunk driver going the wrong way on the Hutchinson River Parkway.
- $65 million to a woman who lost much of her large intestine after an alleged misdiagnosis.
- Half a million dollars, reduced to $85,000 on appeal, for a broken foot in a slip-and-fall.

Plaintiffs' lawyers point out that the majority of such cases get reduced or overturned on appeal or in other post-verdict litigation. (Of course, they do their best to resist such reductions.) For example, courts cut the $65 million intestinal price tag to a more "reasonable" $3.2 million—still enough to outfit one hundred hospital rooms to prevent TB contagion, a task the city has been putting off as too expensive.

By most accounts, only a few juries go "crazy." But city negotiators have to factor in that possibility when deciding whether to settle an otherwise weak claim.

—*W.O.*

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courts to the state Court of Claims. The most salient feature of the Court of Claims is that it uses judges alone, without juries, to decide cases, a practice that city officials hope would mean more predictable and geographically uniform (and, perhaps, generally lower) payments. For claimants, an important benefit would be that Court of Claims cases are resolved much faster than general court cases, the current average being eighteen months as opposed to four years. The city could still be sued on all the same legal grounds as now, and there would not be any set ceiling on damages.

It's hard to paint this as a radical, untried scheme: As Corporation Counsel O. Peter Sherwood has pointed out, a pedestrian who gets hit by a state or a federal truck already goes to a court of claims. It would not seem to shock the conscience to extend the principle to a city truck. One might expect Albany lawmakers in particular to see some merit in the claims-court format, since they have adopted it for suits against their own level of government. Yet "we had a terrible time finding even one sponsor, because the trial lawyers are so strong," says Lorna Goodman of the city law department. (Eventually, Assemblyman Herman D. Farrell Jr. agreed, as a favor.) In committee, the bill won but a single vote. "I can't conceive of how the trial lawyers have so much power," says Goodman, "but they do."

Signs of Hope

Litigation against the city has become a vast industry. Even if no one filed another claim, officials estimate that the existing backlog of unresolved claims would set the city back a cool $2.1 billion. And trial lawyers are always looking for new action. They recently won a $2 million verdict against the city on behalf of a child who had allegedly eaten lead paint chips while living in a city-owned apartment seized from a landlord for back taxes. With the city's enormous real estate holdings, it's not hard to see the potential for mass-producing such cases.

The hopeful side, if there is one, is that New York is ahead of many cities in acknowledging its crisis. The Dinkins and Koch administrations have both worked to call public attention to the city's tort problem. Former Corporation Counsel Kovner called it "extremely serious and escalating." Corporation Counsel Sherwood describes the need for reform as "urgent." And Comptroller Holtzman calls for "tort reform and broader citizen education about the cost of claims to the public," which would "require the support and cooperation of, among others, the judiciary and the legislature." In addition to its Court of Claims plan, the city has proposed replacing bad-baby suits with no-fault payments for mentally impaired children, an idea Governor Cuomo has backed. City hall has also joined with a national tort reform group to post subway signs reminding riders who pays the bill for lawsuit abuse. ("You do!") Presumably it would take a lot of these signs to counteract the countless "1-800-LAWSUIT" ads on the other side. Still, the city's trial lawyers got plenty upset. They got even more upset when the city came out in favor of limiting the "contingency fees" they could charge on the largest awards.

All this has helped to make New York City an important (if, in Albany, little-heeded) voice within the wider movement for liability reform. Many other legal reforms would be helpful to the city: judicial scrutiny of expert-witness testimony, which could curtail bad-baby and other cases that rest on a flimsy scientific basis; stronger sanctions against wrongful suits and legal tactics (New York civil procedure is notoriously lax on this front, allowing abuses that would be soundly chastised in the federal courts); renewed ethical controls on the legal profession; and, somewhere down the line, at least a germ of a "loser pays" principle, so that plaintiffs would cease to view suing as a no-lose adventure, and so that the city and other defendants would have a good fiscal incentive to settle those claims that were truly meritorious. For the sake of the city's solvency—and of justice itself, which suffers when the law becomes an abusive game—the day of reform cannot come too soon. ■

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PROFESSIONAL VICTIMS

"Nobody wanted accidents to happen," wrote the late political philosopher Sidney Hook about growing up poor in Williamsburg, "but if they did occur and were not fatal or crippling, they were deemed blessings in disguise."

In his memoir *Out of Step*, Hook tells of the time as a boy he got badly scraped running in front of a trolley car. "In due course I was my vigorous self again but was kept in bed until the company inspector came to settle." Boredom, bane of bright children, proved his undoing. Tired of playing inside on a sunny day, Hook ignored his mother's orders and stepped out—only to meet the trolley company inspector, who carefully noted his state of health. With that went his family's hopes for a big settlement. "I was not punished, but I was made to feel that I had let the family down badly. For years my betrayal was thrown up to me when I got into difficulties."

It's an old tradition: Given a genuine mishap and a possible legal claim, plenty of otherwise respectable New Yorkers are willing to boost their bargaining leverage by taking time off from work for a while, or running up not-strictly-necessary medical or chiropractic bills. Unfair? As they used to say out in South Dakota, "A man who won't steal from the railroad isn't honest."

Sometimes it gets worse. Hook recalls a "gruesome and unforgettable" scene in Bushwick, when his friend Bip, crying "Watch me, boys!" deliberately threw himself beneath a horse-drawn carriage. "As we ran toward him, someone remarked: 'Bip has just made a case for his father!'" Bip, who very luckily escaped with minor injuries, did make a case, and his family sued. (Hook guesses that the stunt may have been the boy's way of trying to make up with his father after a quarrel.)

The local kids weren't sure it was right for them to back up Bip's story about having crossed the street innocently. But the hired-carriage company spared them that decision by settling, "whether because companies never won that kind of case or because the amount of the suit was less than the costs of litigation."

Technology marches on, but human nature does not. California authorities recently arrested sixteen people on charges of deliberately causing car crashes. The scheme works like this: Organizers obtain a rickety car and fill it with passengers, often recent immigrants who are paid token sums of $25 or so. Then they drive out on the freeway, pull in front of a tractor-trailer rig, and slam on the brakes.

Sometimes a second or third car will take part, hemming in the target rig's driver to keep him from swerving to avoid an accident. In at least one case, the plan went wrong and a passenger was killed. The racket appears highly successful: California agencies learn of hundreds of cases a year, most in the Los Angeles area, and say as many as ninety people have been involved in at least three separate rings.

New York City is short on high-speed traffic and has a reasonably strong no-fault insurance law, so Gotham's abusers target public transit and public sidewalks. Street people show up after minor bus collisions pretending to be passengers; folks with broken arms "remember" slipping on a documented sidewalk crack. Slip-and-falls cost New York City taxpayers $3.82 per capita annually. The comparable figure in Denver is 2 cents, reports Allen Myerson in the *New York Times*.

Prosecutors say dishonest lawyers and doctors are behind most of the organized abuse. But it's hard to pin anything on them, because the time-honored privilege of client confidentiality makes it hard to prove fraudulent intent.

Unless, that is, someone inside the scheme is willing to talk. That's what happened last year in the Morris Eisen case, in which prosecutors charged three lawyers and four others with a colorful array of misdeeds including using a pickax to widen a pothole so that it could be blamed for a mishap and carelessly calling the same witness for two different accidents—a witness who not only was not at either scene, but was serving time upstate for forgery at the time of one of the incidents. The catch was a big one: Eisen's had been among New York's largest personal-injury law firms, grossing an estimated $20 million a year and specializing in suits against city hall.

Some plaintiffs' attorneys welcome antifraud efforts, reasoning that cleaning up the abuses will leave the way clearer for honest claimants and lawyers. When the Eisen indictment was announced, however, it brought fierce criticism from Pamela Liapakis, president of the New York Trial Lawyers Association: "I am sure there are political motivations here. I think that the city of New York has an interest in trying to convince the public that the city is being victimized by people who are bringing lawsuits that are in some ways not legitimate. And that's simply not true." A federal jury apparently disagreed: Last year it found Eisen and six associates guilty. —*W.O.*

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The Uncivil History of the Civilian Review Board

Tamar Jacoby

The mayor calls for a civilian board to monitor the abuse of police power; his proposal angers police and divides the city along racial lines. It happened in 1992—but it also happened in 1966, when John Lindsay was mayor and no one quite suspected how explosive the issue would be.

Suddenly this fall, New York's not-very-secret skeleton popped garishly out into the open again. Not that race was ever very far from anybody's mind, but it had been some time since the city's top public figures had traded in it with so little restraint or decorum. Rudy Giuliani harangued the raucous police demonstration at City Hall, even as officers in the crowd hurled racial epithets at Mayor Dinkins. The mayor's supporters responded in kind, upping the racial ante by comparing Giuliani to David Duke and dwelling on the prejudice they said was at the heart of police objections to a civilian review board. Where the mayor once scrupulously avoided introducing color into the public debate, he now seemed to relish the confrontation and the chance to talk about "racist" cops. Black and Hispanic City Council members with mixed feelings about civilian review admitted they would now have to vote for it, strictly for racial reasons. The city seemed to have taken a huge step backward: to the mindless tyranny of racial polarization. Sadder still, the issue that had provoked the ugliness was an attempt by the mayor to improve race relations—between black civilians and the mostly white police.

Ironic as this outcome was, it was also predictable. The same thing had happened under Mayor John Lindsay in the mid-1960s. The two mayors' initiatives differed somewhat: Lindsay created a seven-member police review board with a majority of civilian members but a Police Department staff; Dinkins pushed a 13-member, all-civilian panel, entirely independent of the department. More important, though, in both cases the mayor's aim was the same—and largely symbolic. Neither review board would have much power or make much real change in the police bureaucracy. Each concerned itself only with minor rule infractions: Any incidents involving alleged brutality, false arrest, or other illegal conduct by police were, and are still, passed on to the district attorney. Neither board had enforcement powers, and both stopped well short of the reforms in the department—internal changes in command structure, training, discipline, and accountability—that most experts now agree are necessary to make a dent in police abuses.

In each case, then, the mayor's goals were modest: to improve police manners and make the streets more civil. Yet in each case, the effort exploded in the mayor's face, spurring not civility but open

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racial antagonism. In 1966, arguably, no one could have predicted that outcome. Today, it should have been clearer—and avoidable.

In 1966, many New Yorkers, eager to do the right thing by blacks, found the idea of civilian review hard to resist. Never before, North or South, had a big-city establishment risen quite so unanimously to support a demand from the black community. Both the *Times* and the *Post* supported the idea. So did the ACLU, the Liberal Party, the City Bar Association, the Anti-Defamation League, and the Council of Protestant Churches. When it emerged that the Policemen's Benevolent Association was going to oppose a civilian board, Lindsay's media adviser, David Garth, organized a coalition called FAIR (Federation of Associations for an Impartial Review Board). Anyone who was anyone in liberal New York rushed to join: black and white, Republican and Democrat, white-shoe elite and ghetto grassroots.

Police oversight struck many liberals as a dream investment: It seemed to require little political or financial capital, looked virtually risk-free, and promised a huge payoff in relations between blacks and whites. Even then, of course, it was clear to the mayor and others that civilian review would not fix all that was wrong with race relations—certainly not what was already being called "the cycle of poverty." Still, white liberals felt, the race problem was surely solvable—and the solution must start by establishing a sense of trust between black and white. They hoped to begin with the civilian review board, prove that white society "cared," and after that, move on to the other, merely concrete problems, like deteriorating schools and housing and the steady erosion of the job base.

For liberal whites, the review board's biggest selling point was that it was what the ghetto said it wanted. At the very least, advocates reasoned, it would calm rising black anger and signal to Harlem's restless youth that someone powerful took their side. Civilian review looked like the all-important first step toward black inclusion in the mainstream. That the problem might be deeper, that angry blacks might not be appeased by a gesture, that many city whites might not understand and might feel badly slighted: None of this was clear in 1966, as it apparently is still not quite clear today. Idealistic whites were not wrong to make interracial trust their highest priority. But because they had little contact with either ghetto youths or working-class whites, they badly miscalculated the size of the gap between the two groups—misjudging how differently black and white New Yorkers would see police issues, and how attempting to force a solution could expose and expand that gap.

Lindsay was right that something had to be done about relations between blacks and cops. Then, as today, blacks saw police abuse as one of their foremost problems. The ghetto was thought to breed all manner of crime, and cops did not expect to have to answer questions about what they did there: whatever it took to maintain public safety. At the same time, many ghetto youths knew few whites other than surly policemen, and naturally focused their resentment on them, making tensions worse.

The idea of creating a civilian panel to oversee the New York force had surfaced first in the 1950s, among the militant fringes of the black community, with Malcolm X one of the first to trade in resentment of the police. By the early 1960s, more-moderate leaders like Martin Luther King and CORE's James Farmer had taken up the banner, in part to establish their bona fides among the restless youth who were being drawn to Malcolm X. Police and business groups joined forces and buried the idea—until the summer of 1964, when rioting in Harlem put the issue back on the agenda.

The disturbances began with an incident between a cop and a black youth. Lieutenant Thomas Gilligan was off duty the afternoon he came across 15-year-old James Powell and two buddies throwing garbage at a doorman who had sprayed them with a garden hose. Gilligan tried to stop the fight; Powell lunged at him with a knife. Gilligan drew his gun and fired three shots, killing the youth. Rumors swirled through Harlem for the next two days and nights. The incident was quickly

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© Jack Manning

Mayor John Lindsay (standing) announces his appointments for the police review board, 1966.

distorted. Gilligan had acted in cold blood, it was said, and the knife was planted after the shooting. Before long, there was looting and arson, then a pitched battle with police, and there was little question that some officers went too far. When the dust had settled, all of Harlem stood together, moderates and militants united in their insistence on civilian review of police conduct. By the time Lindsay declared for mayor, in the spring of 1965, black demands for oversight had a hard, angry edge. A modest request, long denied, had become an accusatory ritual—and the fact that this ritual was blacks' first priority spoke volumes about the city's racial climate.

From the beginning, then, civilian review was a grudge-laden issue—a real concern, to be sure, but also the vehicle for black anger. At the same time, there was ample warning, even before Lindsay took office, that the proposal might not sit well with lots of middle-class whites. Their doubts were apparent as early as the 1965 mayoral campaign, when Lindsay's conservative opponent, William F. Buckley, vilified civilian review from one end of the city to the other.

Buckley's credentials on race issues were more than a little suspect. An opponent of the 1964 Civil Rights Act and a puckish liberal-baiter, he was unafraid to play on prejudice if it seemed likely to win him attention or votes. Still, his arguments against civilian review went beyond pandering. Crime was rising, he said, much of it committed by blacks; but poor blacks were also bearing the brunt of the violence, and they welcomed a tough police presence. It was demagogues who had made an issue of alleged police brutality—a phony charge, he maintained, certain to make life even less safe in the ghetto—and it was being used by militants to whip up racial resentment. At the very least, this presentation seemed convincing to middle-class whites, who had no idea of the different lens through which most blacks viewed cops. Whites in the outer boroughs looked at the issue through their own prism—and, as they saw things, the clear, pressing problem was rising crime.

For Buckley himself, the issue went further still. What bothered him most was the character of the militants' arguments, which he saw as dishonest and racially manipulative. Again and again on the

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campaign trail, he tore into the claim, put forward by James Baldwin and others, that black crime was in fact a form of social protest, something to be understood if not justified.

Incensed and icily mocking, Buckley told followers not to be cowed by this racial rhetoric. Do not think, he insisted, "that Negro crime is any less criminal." His tone could be off-putting, but his arguments were prophetic. Already in 1965, he foresaw how ghetto crime would become tinged by racial politics, how victimization would be used to explain and ignore black violence. His followers, too, were a mixed bag. Already, it was hard to tell the outright bigots from the frightened, confused people wondering how to think about race and crime. The one certainty was the gulf between black and white. The ghetto and the boroughs looked at the same phenomenon, but when they tried to describe it, they found they were talking past each other.

Lindsay either missed this polarization or believed he could simply avoid it. He made some initial efforts to bridge the gap, rejecting militant black demands for an all-civilian review panel: one, that is, like the board Dinkins has created. Though meant to ease white objections, Lindsay's mixed panel immediately drew fire from all sides. Instead of trying harder to achieve a consensus, the mayor simply barreled ahead, imposing his own view. Confident and righteous, he believed he could ignore bigots and militants. Eventually, he reasoned, civilian review itself would undermine them. Proof positive that the city meant to treat minorities "fairly, equally and courteously," it would unite well-meaning whites and grateful, moderate blacks, leaving extremists on both sides without a following. Like much of Lindsay's politics, this was an appealingly idealistic assessment. The trouble was that he could not revise it, even when it proved to be dead wrong.

The opposition persisted, at the ghetto grassroots and in the boroughs. From opposite ends of the city's political universe, Police Commissioner Vincent Broderick and CORE militant Roy Innis called the mayor's proposal "a cruel hoax." "I suspect there will be demonstrations," Innis remarked archly, hardly bothering to disguise the implied threat. (Ironically enough, in coming decades Innis would embrace arguments much like Buckley's, urging other black spokesmen to come down harder on ghetto crime.) The PBA promised its own massive street protests. Still, Lindsay ignored the opposition, reasoning that it would pass once the cops "went through the motions" of trying to block the board.

The mayor moved by executive order to create a review board. Ethnically diverse, limited in power, it was designed to ensure that accused officers be accorded full due process. Publicist David Garth was brought in to package the idea—to help make clear to the public how decent and reasonable it was. Neither the hard sell nor the legal safeguards had much impact. New Yorkers left and right perceived the issue as a test of loyalty—less about police than for the ghetto or the boroughs—and both sides prepared for an all-out political battle.

The *Daily News*, then still the voice of the white boroughs, kicked off the resistance effort, calling the board "the property of bleeding hearts and cop-haters." PBA activist Patrolman John Cassese declared it illegal and announced that the PBA would spend its entire treasury—the then-huge sum of $1.5 million—to kill the idea. Insisting that the mayor had acted without due authority in creating the board, the PBA began collecting signatures to put the issue to a vote. Conservative groups rallied to the policemen's side: the Conservative Party, local American Legion posts, grassroots small-business and homeowner groups, but also more extreme organizations, including the John Birch Society, the American Renaissance Party, and the American Nazi Party. By July, the PBA and the Conservative Party together had collected more than 91,000 signatures for a referendum on whether to eliminate the board—more than three times as many as they needed to put it on the ballot.

The conservative opposition drew on a potent mix of feelings: caution in the face of change, bureaucratic self-interest, and, from some quarters,

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undisguised racial resentment. Many cops, preoccupied with power and prerogatives, simply could not brook the interference from outside. Others felt that Lindsay was using their department carelessly to make a gesture to angry blacks. Still others were genuinely worried that the extra scrutiny would tie their hands in risky situations, endangering them and the people they were trying to help. This argument did not necessarily have a racial edge; indeed, one poll conducted in the months before the election suggested that blacks were more concerned than whites about good police protection. Still, "crime" and "law and order" were crystal-clear code words, and the obviously biased cast of many of the board's opponents only hardened support for it in the black community, further widening the gulf between uptown and downtown.

Friends of the board did not, at first, appreciate what they were up against. Progressives dismissed the board's opponents as cranks. Indeed, Lindsay was thrilled when the John Birch Society came out against the panel. He did not bother to refute the Birchers' arguments, but simply denounced the organization as a "highly organized, militant, right-wing group." Campaigning around town in the weeks before the referendum, he drew attention to the openly racist literature of the neo-Nazis who opposed the board.

The mayor was not entirely wrong. Then as today, the opposition did include some virulent racists. But already in 1966 the charge of bigotry had a McCarthyite edge to it: Once you labeled someone "racist," you no longer had to argue with him. Justified or not, Lindsay's dismissal of the PBA's claims rankled the many ordinary citizens who were not sure where they stood on the issue and badly wanted to hear some substantive debate. As for those who opposed the board for what they felt were valid reasons—fear of crime, loyalty to the police, or even simple ignorance of the black experience—they bitterly resented being called racists. Many who might have been open to argument were annoyed by the mayor's contemptuous attitude, and their initial opposition became more entrenched. Instead of explaining his reasoning, or helping whites see things from a black perspective, Lindsay only increased the polarization of black and white.

As the summer wore on, board advocates saw that they had miscalculated, but instead of shifting strategy they only became more combative. One morning in July, two leading PBA spokesmen had breakfast at Gracie Mansion with Mayor Lindsay. "I told them," Lindsay reported later, "that if anything happened in New York—if there was a blowup—they would be responsible." Abandoning all hope of winning over uncertain white voters, the mayor tried to bully them with threats of looming race riots, helping in effect to legitimize violent disorders. Nothing could have been more likely to alienate middle-class whites. Unlike Manhattan liberals, not even the most tolerant among them believed that looting or arson was an acceptable response to ghetto frustration. As for the board's convinced opponents, they could not have been less impressed. By now, both sides were talking past each other and both were playing shamelessly on white racial fears—whether of crime or of riots hardly mattered. By the end of the summer, the campaign conceived as a way to encourage trust was stirring up mostly paranoia and prejudice.

The battle grew still more bitter as the city headed into fall. The clearer the racial subtext, the angrier both sides grew. Lindsay was often heckled as he made his way around town. "Why do you always kowtow to the coloreds?" yelled one woman in Flatbush. Traditionally liberal members of an Upper West Side synagogue badgered mayoral aide Woody Klein, demanding to know why his boss was always taking sides with blacks. Uptown, too, people saw the issue more and more starkly. "The arguments against the board are shorn of their sophistry in Harlem," said black State Senator Basil Paterson. "We in the ghettos have heard it before . . . 'If you're black, get back.'" With the referendum pitting one side against the other, misunderstanding had hardened into fear and hatred. By now, both saw the campaign as a simple case of "us" versus "them." The police question, as presented, seemed to prove their tribal instincts right.

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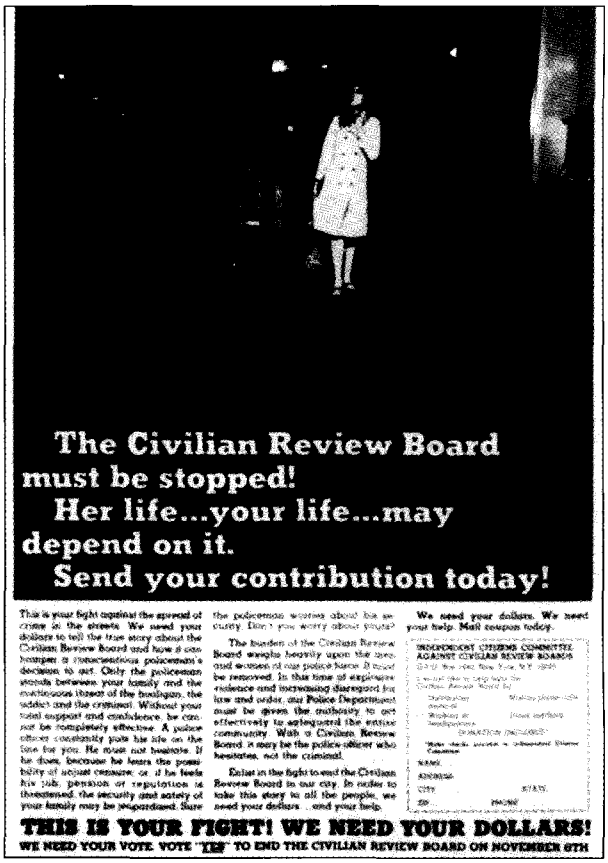
The only surprising thing about the vote was the margin: 63 to 36 percent in favor of abolishing the panel. Only Manhattan voted for it; all the other boroughs were overwhelmingly opposed. Roman Catholic voters, many but hardly all of whom were related to policemen, came out five to one in opposition to the board. Jewish New Yorkers joined them by a margin of 55 to 40 percent. (Pollsters noted a marked class division in the Jewish vote, with highly educated professionals supporting the panel and poorer, working-class Jews opposing it.) Black and Puerto Rican neighborhoods were for the board, as expected, but the turnout there was dismally low. "They just hadn't registered," said Garth, still disappointed many years later. The overall outcome was all the more dramatic given New York's long liberal history: This was the first time in decades that city voters had rejected a progressive cause, turning their backs on civil rights and shrugging off a black demand.

It was not until some years later that interpreters began to examine the racial undercurrents stirred up by the campaign. One team of social scientists, working at Harvard in 1969, tried to correlate the vote with a survey of attitudes taken in a middle-class white neighborhood in Brooklyn. Edward Rogowsky, Louis Gold, and David Abbott found, as they expected, that "on balance, race was the most significant factor" in the way people had voted. Yet unlike those partisans who felt that anyone who opposed the panel was a bigot, these pollsters found that Brooklynites—even those who had gone against the board—held strikingly ambivalent attitudes about color. Three-quarters of the Brooklyn respondents said they would not mind a middle-class black family in their neighborhood; 85 percent believed that "Negroes learn as well as whites." These were startling numbers, even allowing for people's reluctance to reveal their prejudices to strangers. The rejection of the review board had not, the Harvard team found, been a signal that most white New Yorkers were inherently "racist."

What it did signal was a complex set of misunderstandings—which, with some leadership, the city might have bridged. In 1966, most whites had no idea what blacks suffered at the hands of policemen. Neither blacks nor whites understood what the other side was talking about: Whites simply could not comprehend blacks' fear and resentment of blue uniforms, and blacks could not understand why whites did not "get it" or care. Beyond that, by 1966, many whites were truly frightened by the city's growing crime rate. For all the code words, they did not have to be racists to vote against a measure that seemed likely to put them at greater risk.


The Civilian Review Board must be stopped!
Her life...your life...may depend on it.
Send your contribution today!
We need your dollars. We need your help. Mail coupon today.
THIS IS YOUR FIGHT! WE NEED YOUR DOLLARS!
WE NEED YOUR VOTE. VOTE "NO" TO END THE CIVILIAN REVIEW BOARD ON NOVEMBER 8TH
A 1966 newspaper ad urges a vote against civilian review.

More important, though, the Harvard pollsters found that middle-class whites were scared by the anger that was surfacing in the black movement. More than two-thirds of the Brooklyn whites felt the movement was turning in a "generally violent" direction; they were chilled by the protests for protest's sake and by the seemingly bottomless bit-

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terness. Whether or not they liked blacks, and many probably did not, what they feared and resented was the angry pressure, an apparently explosive pressure that no one in the government seemed willing or able to resist. The campaign for police review had only heightened these fears. Blacks had mounted an irate challenge, and instead of trying to mediate it, the city establishment had baldly taken their side. What the episode seemed to prove, for many whites, was that there was no longer a referee—that in order to protect themselves, they would have to rely on tribal loyalty.

The review board vote showed just how easy it was for race relations to spin off track. Well short of bigotry, it was still easier for blacks and whites to misread than to hear each other, easier to overreact than to listen and respond. By 1966, it was already becoming common for whites to blame angry black activists and to cite their excesses as a rationale for resisting change, especially if they wanted to resist in any case. To those who were deeply racist as well as to many who were not, acrimonious color-coded demands had given whites an excuse to act their worst: to hunker down, to block reform, and to vote as selfishly as they liked.

Could Lindsay and his supporters have convinced them otherwise? Could he have proven that racial politics were not a competition, or eased the fearful jockeying that divides all rival tribes? Maybe not. But as it was, city hall did not even try—and instead played right into both black and white insecurities. Both liberals and conservatives were to blame for the shrill, fear-mongering campaign, but Lindsay and his backers should have known better. In the end, it was their cause that suffered most. To convince the city to try change, they needed to go more slowly, reassuring frightened whites and appealing to their decency. They should have learned how to talk to the boroughs—not to blame them but to bring them along. As it was, Lindsay rubbed these people exactly the wrong way. Instead of earning their trust, sparking their generosity and fairness, he triggered their fears and intense resentment.

Police Review Panel Killed By Large Majority in City

By BERNARD WEINRAUB

New Yorkers voted overwhelmingly yesterday to abolish the Police Department's Civilian Complaint Review Board.

Incomplete returns indicated that the vote would exceed 3 to 2 to kill the board set up by Mayor Lindsay to investigate complaints of police brutality and discourtesy.

With 4,551 of 5,187 E.D.'s reporting, the vote was:
Yes.....1,247,687
No.....717,612

The heaviest opposition to the board came from Queens, where the vote was more than 2 to 1. There was also strong opposition in Brooklyn, the Bronx and Staten Island. Only in Manhattan was the vote in favor of the review board.

The defeat of the board is a blow to three powerful political leaders in the state, Mayor Lindsay and Senator Jacob K. Javits, Republican, and Senator Robert F. Kennedy, Democrat.

All three had actively campaigned for the retention of the board and had said that the issue had assumed national importance.

"It's deplorable," Senator Javits said last night. "It places a very heavy responsibility on the police, who campaigned for its defeat, to see that individual civilians are treated decently and fairly."

Mayor Lindsay, at a midnight news conference at Gracie Mansion, blamed "emotion, misunderstanding and fear" for the death of the civilian review board.

Asked if he thought he had been repudiated by the vote, Mr. Lindsay replied: "I don't know. I have no idea at all. It's irrelevant."

Two hours later Senator Kennedy said: "It was a tough issue. I don't think there was complete understanding of the board. The responsibility of the police force will now be far greater than ever before."

The Patrolmen's Benevolent Association had sponsored the referendum to kill the complaint board, saying that the panel would hamper the morale and efficiency of the 28,000-man force.

With the defeat of the board, the Police Commissioner must

Continued on Page 23, Column 1

***The New York Times*, November 9, 1966**

Worst of all, he made it seem that the city was going to choose between them and the ghetto—that blacks would get favors while cops (and perhaps other white civil servants) got fired. The Harvard social scientists who polled in Brooklyn reported that what troubled many voters most was that they felt they were being asked "to create special procedural guarantees for blacks and Puerto Ricans." Even many who wanted to vote liberally, the pollsters said, had balked at that. In 1966, most whites had not yet moved beyond the 1964 Civil Rights Act. They would remove the barriers to black advancement; they would, by their lights, level the playing field. But beyond that they simply were not prepared to go—even if they looked like the worst of racists.

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The city would never be the same again. The bruising campaign had encouraged both right and left to trade in blatant racial appeals, fueling the politics of blame and fearful color-coded resentment. From now on, few New Yorkers would be embarrassed to make race an issue, to vote their fears or their prejudices. Each side was now convinced that the other was its natural enemy, and both would react defensively to any future exchange. Lindsay and those who came after him would have a harder time passing substantive programs—for schools, housing, job creation, acculturation, and the like—originally expected to follow in the wake of police reform. What was meant to be a cost-free gesture would end up requiring many thousands of dollars when the city next tried to negotiate with the mistrustful police union: Furious at city hall, determined to do as well for themselves as the ghetto did, cops would drive a much harder bargain on both wages and work rules.

The black community, too, was further alienated by the campaign, pushed to still harder bargaining and greater militancy. From the ghetto's point of view, the city had sent an unmistakable message. By more than two to one, the backlash vote had triumphed over the liberals; the widespread bias that blacks suspected had been revealed for all to see. The city had said, as Paterson put it, "If you're black, get back." That was all blacks needed to hear to confirm their fears and fuel their anger. Like whites who used Black Power as an excuse to act their worst, many angry blacks felt their bitterness vindicated by the hostile message they heard from whites.

So, turn for turn, each side fed on the other's mistrust and resentment. Each act of rejection engendered another, and each bad experience paved the way for worse. Instead of bringing blacks and whites closer, the campaign exposed how far apart they were and in the end only made the chasm wider. The liberal establishment that forced the vote could not be blamed for its good intentions or even for its ignorance of the fear and anger that divided one side from the other. What is harder to understand is why so few of these white idealists were able to recognize their mistake—to see the fight they had encouraged and back off before it got worse, guiding the city toward compromise instead of a bitter standoff. More than 25 years later it is still a troubling question, as the city totters again on the brink of the same chasm.

The compromise civilian-review bill engineered in October by City Council Speaker Peter Vallone should help somewhat to ease the polarization of the city. Still, like Lindsay before him, Mayor Dinkins has a long way to go in explaining police matters to black and white New Yorkers, defusing the racial mistrust that the issue brings out. Can Dinkins now win back the confidence of the Police Department? Can he convince cops—and voters—that as much as any candidate he backs the battle against crime? Can he now backtrack and persuade black and Hispanic neighborhoods that in fact cops are on their side and are trying to help? Does he expect this episode to enhance respect for the legal system among already angry and mistrustful ghetto residents? Does he expect cops on the beat to give the job their all, particularly in neighborhoods where they feel resented? Today as in 1966, the fight over civilian review has made it that much harder to bridge the gap between the police and the ghetto. The board itself is unlikely to do much to repair relations, and the looming mayoral election can hardly help. As Lindsay found, once unleashed, the spiral of racial anger is all but impossible to control; it will be all Dinkins can do to try to contain it now. ■

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L.A.'s Engine of Growth

Joel Kotkin

Despite Southern California's economic and social troubles, there is reason for hope about the region's future. A remarkable new manufacturing economy is evolving based on small firms. These companies, many owned by minorities and immigrants, are providing economic opportunities to the region's poor and a basis for ethnic harmony.

Los Angeles, long dismissed as an overgrown suburb or a city without a center, now occupies center stage in the national debate over the future of American urban civilization. Last spring's riots created a grim and misleading impression of Los Angeles as a breeding ground for poverty and racial strife. In fact, Southern California remains in large part a land of opportunity. Facing the fast-growing Pacific Rim, Los Angeles is at the heart of a profound transformation of the American urban economy. The dominance of the Fortune 500 is fading, while smaller, more flexible firms, many owned by minorities and immigrants, are coming to the fore.

American economists and urban planners have traditionally associated economic success with large companies. Yet in the new global economy, these corporate giants are fading in importance throughout the world. With new products and technologies developing at a blinding pace, modern manufacturers must learn to make products in small lots and to modify their designs continuously; stable markets for mass-produced goods are rapidly disappearing while firms that can quickly adapt to new markets by producing a wide range of sophisticated products are gaining the advantage.

Finding ways to adjust to these changes is essential to the future of U.S. cities, with their explosive social problems. As the small business revolution intensifies and big companies become less important, the core cities risk being left behind, doomed to a cycle of poverty, decay, and violence. To avoid this pitfall, policymakers must comprehend the enormous scale of the shift now taking place in the U.S. economy.

As recently as the late 1970s, America's business environment resembled the highly centralized, corporate-dominated economy described by John Kenneth Galbraith in his *New Industrial State*. Yet within a decade, the share of gross national product controlled by Fortune 500 companies had dropped from 60 percent to barely 40 percent.

Once paragons of stability, giant companies now fall with an unprecedented rapidity, shaking the economic and social foundations of cities from coast to coast. During the 1980s, the Fortune 500 slashed their manufacturing payrolls by more than 1.3 million jobs, creating vast pockets of unemployment in large industrial cities. The corporate giants'

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share of manufacturing employment has fallen from a high of nearly 75 percent in 1969 to roughly 50 percent today; during the same period, the proportion of Americans working for these corporations declined from more than 20 percent to only 10 percent.

Overall during the 1980s, the Fortune 500 companies shed an estimated four million jobs. At the same time, but with less notice, smaller firms created more than twenty million new jobs, the majority of them in new companies. In manufacturing, for example, the number of people employed by companies with more than five hundred employees declined by more than 10 percent, while smaller manufacturers boosted their employment by 7.5 percent.

During the current recession, analysts and the media have focused most of their attention on the continuing cutbacks in employment by large corporations, now estimated to be reducing their job rolls at a rate of more than 2,200 workers a day nationwide. The real cause of the recent high levels of unemployment, however, has been a slowdown in small business growth. Small business employment is still growing, but only about one-fourth as fast as during the 1980s.

When the economy recovers, the new jobs will almost certainly come from smaller firms and new start-up businesses. If American cities are to remain vital centers of industry and commerce, their leaders must develop policies that meet the needs of entrepreneurial companies.

In New York, the traditional capital of corporate America, political leaders have resisted acknowledging the new economic reality. Under pressure from the press and the ruling elite, the city has bestowed its largess primarily on multinational corporations and the builders of high-rise office towers, while the needs of smaller firms, particularly in manufacturing, have largely been ignored. During the halcyon days of the financial boom, in fact, one top New York economic official proclaimed that the city didn't want "lousy Silicon Valley-type manufacturing jobs."

The companies that provide those "lousy jobs" obliged: They didn't come to New York, and many that were already in the city departed. Since the early 1980s, for example, the New York area's share of the *Inc.* 500 list of fastest-growing small companies has consistently been less than half that of either Los Angeles or even the San Francisco Bay area, which has a population only about one-third as large as the New York area. Overall small business growth in New York fell to less than one-third the national average.

As a result, the city—which in the 1950s had a highly diverse manufacturing base that included garments, metals, and a host of smaller specialized industries—lost more than 600,000 industrial jobs by 1982. The city's industrial base declined an additional 20 percent by 1989—before the current recession began.

Without a vital small business sector, the city's economy has tended to produce two kinds of jobs: extremely low-end service positions and well-paid technical and managerial positions for the educated "post-industrial" elite. Instead of providing minorities with an economic ladder, New York's "boom years" of the mid-1980s engendered a large permanent underclass; only Cleveland, Detroit, and St. Louis had a lower overall rate of labor participation. Nationwide, the labor participation rate for teenagers out of school is 50 percent. In New York, the rate has been a mere 20 percent—and far lower for minorities.

By contrast, Southern California, which never developed a corporate headquarters culture comparable to New York's, rode the entrepreneurial wave throughout the 1980s. Even as larger-scale industries such as aerospace and automobiles fled, Los Angeles's industrial base remained formidable: It is now twice the size of Chicago's, its nearest rival. Los Angeles maintained its industrial base by shifting toward flexible, smaller-scale firms in varied fields such as textiles, biomedical equipment, and computer components. By the end of the decade Southern California was home to more *Inc.* 500 manufacturing companies than Chicago, Pittsburgh, and Detroit combined.

During the 1980s, Southern California—in

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sharp contrast to New York and other traditional manufacturing regions—actually expanded its production, particularly in the "edge city" areas on its periphery. Indeed, until the recession reached California, small industrial firms were still creating enough new jobs to replace those lost by the departure of larger companies, according to a study by the Center for the New West. Not surprisingly, the 1980s saw the construction of ten times as much new industrial space in the Los Angeles area as in New York; similarly, industrial expansion in the Los Angeles suburbs vastly outpaced that of areas such as Long Island and northern New Jersey.

These expanding industries have provided immense opportunities for Southern California's fast-growing Latino and Asian populations. Far from constituting an underclass, the region's immigrants are less than half as likely as the general population to be dependent on welfare. And Los Angeles's Latinos participate in the labor market at rates well above those of non-Hispanic whites.

It is true that a large portion of Southern California's industrial growth took place in traditional low-wage industries such as garment manufacturing. But much of it was in better-paying businesses such as fabricated metal products, industrial and commercial machinery, and electronic equipment. In areas where these industries are concentrated, such as La Puente, a city of 37,000 east of downtown, predominantly Latino neighborhoods have achieved incomes roughly equal to the national average. East Los Angeles, often characterized as the "capital of the Third World" by traveling dilettantes and left-wing critics, has actually emerged as "the landscape for Latino capital accumulation and social mobility," in the words of demographer Victor Valle.

Indeed, roughly half of the region's small industrial firms, mostly "job shops" that make specialized products to order, are owned by Latinos, many of whom have risen from the most menial positions. "Eighty to 90 percent of the machinists and sheet-metal shop people in this town are immigrants—Hungarians, Romanians, and the greatest number Latinos," observes Robert Barbour, a native of Argentina who has organized some eighty predominantly Latino job shops into his American Manufacturing Network (Amanet). "The labor force helps keep manufacturing above ground—and, by now, two-thirds of the owners are from the new [ethnic] groups who see this as their opportunity."

The emergence of organizations such as Amanet suggests the shape Latino industrial power may take as it continues to expand. Amanet provides a marketing channel as well as technical assistance to its member companies, most of which employ ten workers or less. Often rather unsophisticated producers at start-up, these companies now make a vast array of goods ranging from auto parts and boating supplies to sophisticated components for commercial aircraft, biomedical devices, and consumer electronics products.

The growth of small industrial networks among Asians has been even more dramatic. In Fountain Valley, a heavily Asian city in Orange County, an entirely new economy based largely on the manufacture of computer components has emerged since the early 1980s, mostly through the efforts of Chinese, Vietnamese, and other Asians. One of the firms in the area, AST Research, is already a billion-dollar computer maker; its spinoff Kingston Technologies ranked first in *Inc.*'s 1992 list of the nation's five hundred fastest-growing companies.

Kingston president John Tu takes issue with those in the press and Southern California's old business establishment who see the region's largely immigrant workforce as an incipient underclass. In fact, he says, his company's 120 employees—nearly all of whom are immigrants, from Latin America and the Middle East as well as Asia—are as skillful and diligent as their counterparts in East Asia or anywhere else.

"This is still the land of opportunity, but people don't recognize it," says Tu, a lanky Taiwanese immigrant whose firm's sales this year are expected to top $240 million. "If people are motivated and treated fairly, they can compete with anyone in the world, including Taiwan or Japan."

As developments in both East Los Angeles and Fountain Valley suggest, the new Angelenos,

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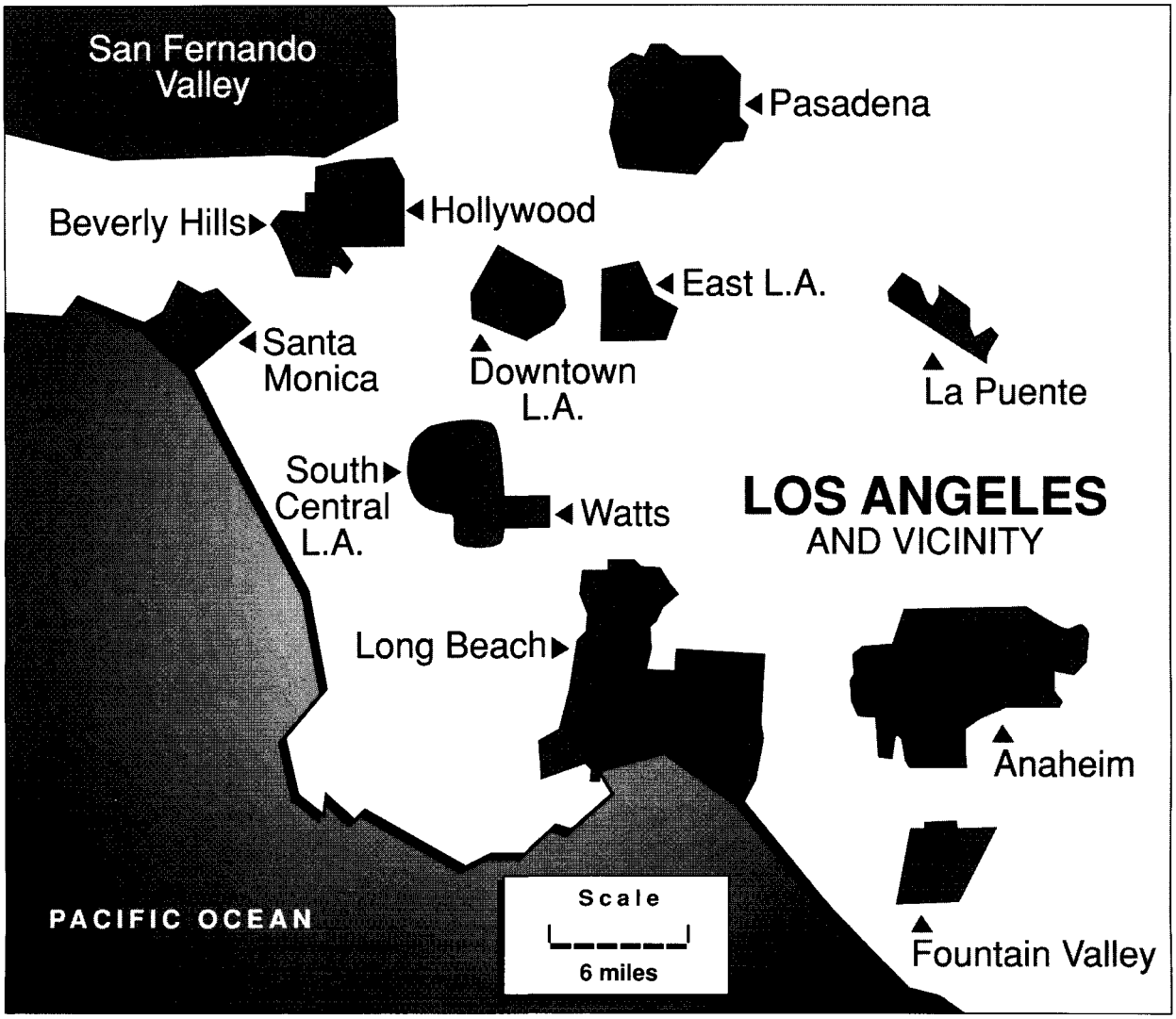

rather than becoming dependent on welfare, are rapidly emerging as the most vital producers in Los Angeles's entrepreneurial economy. Southern California already has the nation's largest concentration of enterprises owned by Latinos, Asians, and blacks. In 1987, these companies had combined revenues nearly three times as large as minority-owned businesses in New York City, which has a nonwhite population comparable in size.

Perhaps the most promising sign of all has been the emergence of a strong black middle class that is among the largest in the country. Although Los Angeles's black community is only the nation's fourth-largest, its black-owned businesses have higher total revenues than those in any other U.S. city. Until recently, this black middle class has been overshadowed in the public debate by more-militant black leaders. But the riots—condemned by three-fifths of Los Angeles blacks in a *Los Angeles Times* poll—alerted middle-class blacks to the need for new leadership in their community.

At the heart of the new black middle-class agenda lies a determination to shift black attention from political to economic issues. Such a shift is

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partly a matter of political necessity. Blacks, whose population remained constant during the 1980s while that of Latinos and Asians exploded by two-thirds, will likely soon become only the region's third-largest ethnic minority. Their political power will inevitably be diminished.

Middle-class blacks increasingly recognize that small business, not politics, represents the best hope for those in their community who have been left behind. "I see society as organized along predominantly an economic, not a political, paradigm," observes Errol Smith, president of Building Maintenance of America, a company based in the northeastern suburb of Glendale. But the 37-year-old Harlem native complains that "a lot of minorities are focused on looking . . . for racism rather than for opportunities."

Smith, who also hosts a popular radio talk show, preaches a gospel of self-help that is already deeply entrenched in the Latino and Asian communities and is increasingly resonating with blacks as well. New upscale publications such as *Black Bottom-Line Magazine* have appeared in the wake of the riots, challenging the traditional African-American leadership's focus on government solutions to inner-city problems. Smith sees the region's burgeoning Asian and Latino business communities not as enemies, but as role models and potential allies. His approach is reassuring to Asian business owners, who were deeply shocked by the anti-Asian tone of the riots, epitomized by attacks on Korean enterprises.

Traditionally quiescent, some Asian business leaders have begun to cultivate ties with other parts of the region's ethnic economy. For example, Harold Chaung, president of the Chinese Bankers Association, has set up a series of seminars to help black and Latino entrepreneurs gain access to his community's capital resources.

The key to building a multiracial economy must ultimately lie with the Latinos, who by 2000 will be the region's largest ethnic group. Like other ethnic groups, the Latino community was shocked both by the ferocity of the riots and by the fact that some Latinos—mostly from the poor, largely immigrant communities just west of downtown—joined in the looting.

Although the Mexican-American communities on the East Side were untouched, looting by Central American refugees conjured up images of a Latino Los Angeles following an increasingly left-wing Third World agenda. But most Latinos are unlikely to embrace radical politics, which would simply recreate the chaos and class warfare they came to California to escape. They are more likely to find common ground with other ethnic groups in a shared work ethic, a commitment to family values, and a desire for order.

These attitudes will be strengthened by an emerging Latino business leadership that is growing in power and influence. In 1993, for instance, Dan Garcia, a top Warner Brothers executive, will become the first Hispanic head of the Los Angeles Chamber of Commerce. Leaders like Garcia see their community as consisting not of victims but of workers and entrepreneurs, the inheritors of the new Los Angeles.

"We are a minority city, an immigrant city, and there are some very positive factors that come into play," observes Latino venture capitalist Danny Villanueva. "The future of this city is going to be the emerging entrepreneurs—read into it, minority—who are fastest growing in producing new jobs. The big companies haven't added a job in two generations."

In the coming months, this new vision of a multiracial, entrepreneurial Los Angeles will increasingly dominate the debate as the city chooses a successor to five-term Mayor Tom Bradley. Already, most of the likely candidates—including former Ambassador to Mexico Julian Nava, City Councilmen Mike Woo and Joel Wachs, State Assemblyman Richard Katz, and Transportation Commissioner Nick Patsaouras—are competing to identify with the emerging ethnic and economic forces, rather than with ethnic warlords or the traditional corporate elite.

The new emphasis on economics rather than racial entitlement is a hopeful sign for Los Angeles. In an ethnically diverse society, economic opportu-

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nity is the best hope for ethnic cooperation. The small business revolution can become an engine for the creation of a new multiracial economy and a harmonious society—in New York and other cities as well as Los Angeles.

"Business is the way we can make this all work," Villanueva says. "A lot of people think all these minorities are a disaster. But the diversity here is going to be in the end what saves us, not what dooms us." ■

UNDERSTANDING THE RIOTS

In the months following the Los Angeles riots, the conventional wisdom, even among those who once looked favorably on the region, has been that Southern California is an experiment that failed. By the end of the three days of arson and looting, all the world knew what only a few here had fully suspected—that some undefined but undeniable rot had eaten into the basic structure of the Southern California megalopolis.

In New York and other East Coast centers, the fashionable analysis is that of dilettantes who, after a few weeks or even days in Los Angeles, saw it as destined to follow the pattern described in Ridley Scott's futuristic film *Blade Runner*, with its images of environmental degradation, gaping barriers of class and ethnicity, and admixture of high technology and social decay. In this view, Los Angeles is hopelessly divided between a few rich whites, most working in Hollywood, and a massive, largely minority underclass seething with resentment and driven toward violence.

In truth, Southern California's prospects, if not ideal, are hardly so bleak. To a considerable extent, the riots reflected unique political conditions—most notably the presence of a stubborn, militaristic police chief and a highly politicized African-American community leadership that condoned and even helped spur the violence.

But most of all, the riots were sparked less by rage than by envy; they were primarily a product of the massive demographic transformation that was brought on by Southern California's entrepreneurial boom of the 1980s and that fueled its growth. Just as prosperity on the east coast had once attracted millions of Europeans to New York, the Southern California boom lured a flood of newcomers, most of them from Latin America and Asia. As a result, Southern California easily emerged as the nation's leading center for new immigrants, by 1989 welcoming more than twice as many as second-place New York.

These changes unnerved even prosperous residents of Los Angeles. To the poor in South Central, the immigrant "invasion" seemed particularly ill-timed. Many who were not part of the great black exodus to the suburbs during the 1970s and 1980s watched economic opportunities dwindle, as up to seventy thousand Fortune 500 jobs, many of them in the aerospace and automotive industries, were lost.

Yet even as the former economic mainstays were leaving, new immigrants began participating, as entrepreneurs as well as workers, in the new small companies that were reviving the local economy. By the late 1980s Asians, whose countywide population is roughly equal to that of blacks, earned business revenues nearly twice as large. South Central Los Angeles, the traditional core of the region's black community, was becoming predominantly Latino, with much of the business base in the hands of immigrants—particularly Koreans, who are ten times as likely as blacks to become entrepreneurs.

Los Angeles's blacks are in many ways better off than their counterparts in other large U.S. cities—only half as likely to be living in poverty, for example. But the rapid changes in the city's ethnic makeup and economy made many in the community feel increasingly displaced. In the months before the riots, animosity between blacks, Latinos, and Koreans was growing perceptibly. Black political leaders, such as Brotherhood Crusade head Danny Bakewell (who might be described as Los Angeles's Al Sharpton), were exploiting and heightening tensions created when a Korean store owner shot a black girl. At the same time, blacks and Latinos competed for positions at the local Martin Luther King Hospital and over turf at public housing projects.

The tinder was dry on April 29, 1992; when it exploded with a ferocity few could have expected, the immigrants—not the white Establishment or even the police—were the main targets. Persuaded that the newcomers were the root of their problems, South Central residents turned their "rage" first on Koreans and Latinos. Even though the looting eventually spread to other communities, Latino and Asian merchants, according to both federal and city statistics, accounted for roughly 85 percent of all the businesses damaged in the riots.

—*J.K.*

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Scarcity by Design: New York's Failed Housing Policies

At a recent City Journal *Forum, urban specialist Peter Salins discussed the arguments of his new book,* Scarcity by Design: The Legacy of New York City's Housing Policies *(Harvard University Press, $29.95), coauthored with Gerard Mildner.*

PETER SALINS: In *Scarcity by Design*, Gerard Mildner and I look at what ails New York's housing. We are critical of many New York City and State housing policies of the last fifty years. These policies are so entrenched that this book will not win us many new friends in the New York housing fraternity and may cost us the ones we already have. Welcome or not, the message of our book consists first in the little-contested view that housing conditions in New York are generally abysmal by contemporary urban standards. Our second, more controversial point is that these housing conditions are no one's fault but our own. By "our own" I mean New York's voters, politicians, and policymakers. They're not the fault of Ronald Reagan or George Bush; they're not the result of the recession or the product of gentrification. They are the legacy of a half century of deliberate, well-intentioned but ill-conceived city and state policies. Hence our title: *Scarcity by Design.*

How and why did New York's housing policies go so far astray? We locate most of the problem in one common but pervasive mistake: an unwillingness to recognize or accept the imperatives of a private housing market. New Yorkers believe that when it comes to housing, unlike other private goods or services, the government should have the power to repeal the law of supply and demand. This belief is grounded in a popular New York attitude: that New Yorkers are entitled, if not to a free lunch, at least to a cheap one.

Dignifying, even ennobling, this attitude has been the assertion that the city must intervene in the housing market for the benefit of New York's poor. In fact, as our book argues and documents, the poor have benefited least of all from the city's housing policies. If anyone has benefited, it is the city's middle class. But we argue that in the long run these policies have been counterproductive even for their supposed beneficiaries.

What policies are we talking about? There are four sets of housing policies, enforced by different agencies for different purposes, that together have created a housing supply that is of poorer quality,

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scarcer, and more expensive (for those not already vested in its benefits) than that of any other American city.

The first is a fifty-year regime of rent regulation that covers about 1.2 million apartments, or two-thirds of the rental stock, mostly occupied by the middle- and high-income residents of Manhattan, the Bronx, and Queens. These regulations have caused most of the affected apartment buildings to deteriorate and have sharply discouraged the construction of new rental housing.

The second set of policies is the city's sclerotic system of overlapping development regulations including zoning, landmarking, environmental regulation, and cumbersome approval procedures. These have made it too expensive for all but the biggest developers to build anything other than luxury housing.

The third is the city's notoriously unjust system of property taxes: It imposes a minimal burden on the city's one- to three-family houses, and makes up the revenue shortfall by exorbitantly taxing multifamily rental units.

The fourth destructive policy has been the cornucopia of direct housing subsidies underwriting the construction and rehabilitation of over 300,000 apartments, mostly targeted at middle-income tenants, broadly understood. Not only is every one of these four policies harmful or unfair in its own right, but together they operate synergistically, reinforcing each other's impacts.

The scenario goes like this: The profit limitations imposed by rent regulation, high property taxes on apartment buildings, and development regulations severely constrain housing supply by discouraging new housing construction and hastening deterioration of the existing stock. At the same time, the bargain rents of regulated and subsidized apartments distort the pattern of housing demand. Unregulated or unsubsidized private apartments are placed at an unfair competitive disadvantage with the regulated and subsidized stock: Middle-income beneficiaries of regulated or subsidized apartments are not going to pay twice as much to move to new apartments, even if they are somewhat bigger or

Landlords protest rent regulation.

better. Thus, it is only profitable for developers to build luxury housing.

The result is the city's two-tier housing stock. One tier consists of an aging and deteriorating supply of cheap but scarce apartments. The other tier comprises a small inventory of slightly less scarce but much more expensive unregulated apartments. Eventually the worst of the regulated and subsidized stock, falls to the poor, just at the point that it becomes economically unviable. And even as the poor inherit the dregs of the regulated or unsubsidized stock, they pay as much or more than quick-witted middle-class tenants who are vested in reasonably good and cheap apartments.

What can be done to turn New York's housing market around? Gerard Mildner and I believe that New York can still have a flourishing private housing market like that of most American cities. What fifty years of public policy have wrought, five years of a different public policy can set right. Our proposals may be politically naïve, but we believe that they would create an abundance of affordable, high-quality housing. Essentially, we call for the deregulation and desubsidization of New York's housing, and in the spirit of our newly elected president, we offer a six-point program.

First, completely deregulate rents. This can be accomplished with such transitional measures as vacancy decontrol (deregulation of vacant apartments) to protect incumbent tenants, or luxury

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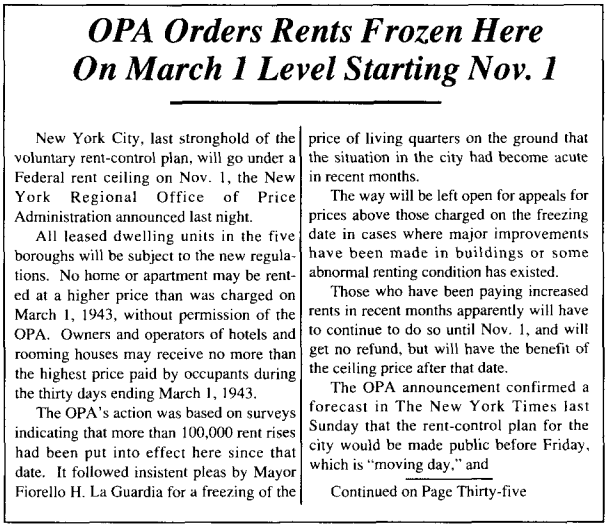

OPA Orders Rents Frozen Here On March 1 Level Starting Nov. 1

New York City, last stronghold of the voluntary rent-control plan, will go under a Federal rent ceiling on Nov. 1, the New York Regional Office of Price Administration announced last night.

All leased dwelling units in the five boroughs will be subject to the new regulations. No home or apartment may be rented at a higher price than was charged on March 1, 1943, without permission of the OPA. Owners and operators of hotels and rooming houses may receive no more than the highest price paid by occupants during the thirty days ending March 1, 1943.

The OPA's action was based on surveys indicating that more than 100,000 rent rises had been put into effect here since that date. It followed insistent pleas by Mayor Fiorello H. La Guardia for a freezing of the price of living quarters on the ground that the situation in the city had become acute in recent months.

The way will be left open for appeals for prices above those charged on the freezing date in cases where major improvements have been made in buildings or some abnormal renting condition has existed.

Those who have been paying increased rents in recent months apparently will have to continue to do so until Nov. 1, and will get no refund, but will have the benefit of the ceiling price after that date.

The OPA announcement confirmed a forecast in The New York Times last Sunday that the rent-control plan for the city would be made public before Friday, which is "moving day," and

Continued on Page Thirty-five

***The New York Times*, September 29, 1943**

decontrol (deregulation of expensive apartments) to protect poor or moderate-income tenants. In any case, the goal should be the complete deregulation of rents by the year 2000.

Second, overhaul development regulations. The zoning code, landmarking laws, environmental laws, and land-use review processes should be revised to allow extensive residential development in zones currently designated nonresidential and to permit higher residential densities in all but the most developed parts of Manhattan.

Third, sell the inventory of city-owned *in rem* apartments to their tenants or to responsible entrepreneurs. The city is currently New York's biggest slumlord and a major rehabilitator of the housing stock it inherits through tax foreclosure. It should get out of the business.

Fourth, privatize the entire 150,000 or so Mitchell-Lama and other publicly assisted apartments, either by selling them to their occupants as co-ops or by selling entire buildings to private housing firms. Some of this stock is already on the path to privatization under the terms of its original charters, but attempts have been made to derail this process.

Fifth, overhaul the property tax system so that rates are uniform for all classes of housing property and assessments accurately reflect current property values in all neighborhoods. Homes should not be underassessed in high-value areas or overassessed in low-value areas, and no residential property should pay a tax that exceeds 2.5 percent of its market value. (The current property tax for rental housing in New York exceeds 4 percent.)

Sixth, liberalize condo and co-op conversion laws so that where a market for apartment ownership exists, it will not be thwarted.

If we do all of these things, we would see substantial benefits in three to five years. Most importantly, the rate of private housing development would greatly increase. Fewer than 10,000 new housing units are currently being built per year in New York City. Even before the recession we rarely built more than 20,000 new units. If New York merely built at the rate of such less regulated cities as Boston and Atlanta, it would see 80,000 to 100,000 new units added each year.

In addition, existing housing would be allocated on a more rational basis. For example, people in desirable apartments would pay more than those in undesirable apartments, people in big apartments would pay more than those in small ones, and people in Manhattan would pay substantially more than people in the other boroughs.

The resulting new housing construction and the more rational allocation of existing housing would give New Yorkers much greater availability and choice in housing. We would expect the rental vacancy rate to rise from its present average of about 3.5 percent to more than 5 percent.

It is true that under our proposals the average rent would increase slightly, perhaps by 10 percent, but the rents paid by newcomers to the city or by those who must change apartments would drop substantially. Moreover, the quality of housing in New York for all classes would greatly improve. One final benefit would be an end to the bruising battles between tenants and landlords, renters and owners, the vested and unvested.

I conclude with the clear-eyed acknowledgment that the six-point program I've proposed has little chance of imminent passage. But we hope that by offering our analysis of New York's housing

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problems, and by suggesting some radical policy options to solve them, we will help to light the way.

LOUIS WINNICK, Fund For The City Of New York: Peter Salins demonstrates that much of what's evil about rent control is its consequences for the poor. But he omits two or three facts about the deformations under the current regime. Today, the rent on a subsidized public-housing unit is frequently higher than the rent on a private regulated apartment. The taxes on a one-family house in Staten Island or the outer reaches of Brooklyn approach those of a ghost town in Wyoming. And finally, even with the complete restoration of market pricing for housing and a rationalization of the property-tax system, the heavy regulatory burden Peter alluded to would still prevent even the most entrepreneurial actor from realizing a profit on his investment within a reasonable period of time. Around the turn of the century, Alfred White, perhaps the first wealthy person to develop housing for the poor, built a project that still exists by the waterfront in Brooklyn Heights. It took him 11 months to build those apartment houses from the time he acquired the land to the day the first tenant moved in. These days you can't even get a building permit in New York City in 11 months.

EUGENIE BIRCH, New York City Planning Commission: I am intrigued by your idea of removing regulatory barriers to development. However, the Planning Commission recently approved a large project on the West Side. Had it gone through without citizen participation, it would be all luxury housing. Thanks to the regulatory process, however, 12 percent of the units will be affordable housing. So sometimes the regulatory process provides for certain societal needs.

PETER SALINS: The site you are referring to—the former rail yards on the West Side of Manhattan—is an unusually large parcel of land that perhaps requires a little bit more scrutiny than what is normally called for. But even for so important a parcel I would like to see a zoning ordinance and a set of companion regulations—environmental, landmarking, and so forth—that would make that site developable as-of-right. Now we have a process that subjects all development to negotiation. Essentially it becomes a game. Donald Trump, the putative developer, submitted an outrageous proposal. In response, the neighborhood said you cannot build anything. The Planning Commission, quite adroitly, stepped in as an intermediary and presided over a negotiation that seems to have produced a reasonable outcome. But this costly process would have been unnecessary if clear and objective criteria governed what a developer could and could not do.

LOUIS WINNICK: It may not even have been Donald Trump's aim to build such a project. Peter Salins mentions in his book that rent control artificially reduces the market value of a large part of the city's rental buildings and land. The owner who can fight his way through layers of review and regulation and finally succeeds in getting the Planning Commission to allow him to build a profitable project has greatly increased the value of the vacant land without having to lay a single brick. He can, if he wishes, turn around and sell the land at a considerable profit to another builder in return for exercising his skill in negotiating with the bureaucracy. Naturally, the added cost of negotiating means the apartments

LINDSAY ORDERS A RENT ROLLBACK FOR 600,000 UNITS

Says Uncontrolled Housing Must Rescind "Excessive" Rises or City Will Act

RATE FREEZE DEMANDED

Owners Given Three Weeks to Approve of Guidelines-Legal Curbs Threatened

By DAVID K. SHIPLER

Mayor Lindsay told the owners of more than 600,000 uncontrolled apartments yesterday to roll back "excessive" rent increases and accept rent guidelines, within three weeks or face regulation by law.

Citing a report showing median rent increases of 26.5 percent recently, the Mayor also demanded that rents be frozen for the three-week period. He said that within five days he would appoint an impartial board of economists and housing and financial experts to set the guidelines.

Saying that demands for rollbacks and rent freezes were "without precedent in the history of New York City," Mr. Lindsay told a news conference at City Hall that he thought

***The New York Times*, February 9, 1969**

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will be more expensive than if they had been built as-of-right.

JOHN STOSSEL, ABC News: On the one hand you said that if housing were deregulated, the supply would increase and housing would become more affordable. Yet I think you also said that if your proposal were implemented, the average cost of housing would go up.

PETER SALINS: I was talking primarily about rent control, under which mostly middle-class tenants often do not even pay enough rent to keep their buildings in good condition. There is no question that if markets were freed of control, rents in the middle range of housing would rise—not as much as people think, but somewhat. But rents would soon decrease for tenants who are not in rent-controlled or subsidized housing, or for those who want to move within the city. The difference in cost between excessively cheap regulated apartments and very expensive apartments for everybody else would be eliminated.

JOSEPH ROSE, Citizens Housing and Planning Council: You said you are in favor of eliminating all city subsidies for housing. But if the average housing allowance available to welfare families is $312 for a family of four, and the Rent Guidelines Board estimates that the operating cost of a two-bedroom apartment is $359, don't there have to be government subsidies to make up the difference?

PETER SALINS: There's no question that New York's poor, and the poor throughout the rest of the country, need housing assistance. Ideally we should find ways of letting them decide how much of their income—the combination of public assistance and whatever they can earn—they want to devote to housing. But if we do earmark assistance for specific purposes, I would rather give the poor tenant a housing voucher than have the city build and manage housing. Subsidize the tenant, don't subsidize the stock.

EVAN GALBRAITH, Morgan Stanley: Given the fact that the rent control laws are sunset laws—passed to deal with an emergency and written to expire two years after they were adopted—isn't it true that the governor can end rent control simply by not signing the extender bill when the current rent control bill expires? Wouldn't it be better just to let rent control die that way than having a transitional period of vacancy or luxury decontrol?

PETER SALINS: That's an even more dramatic approach than I have the courage to advocate, but not simply because the measures I call for—vacancy decontrol and luxury decontrol—are more acceptable politically. I don't think you can just change the rules in midstream. You have to give New Yorkers who have gotten used to the system a chance to adapt. As far as the sunset feature goes, we need a vacancy rate greater than 5 percent across the entire stock to trigger the end of rent control under present law. But the way the system is now, we're never going to see a vacancy rate that high. In a case that is not yet resolved, the Rent Stabilization Association has gone to court demanding the deregulation of some classes of housing which already have a greater than 5 percent vacancy rate.

CHARLES J. URSDTADT, HRE Properties: We've been struggling with this problem for fifty years, but I have seen only two attempts at reform since rent regulations were enacted in 1943. One was vacancy decontrol, which lasted from 1971 to 1973, when it was repealed at the urging of a Republican governor. Recently, a bill was introduced in the legislature to decontrol apartments renting for more than $2,000 a month to tenants whose income exceeds $100,000 a year. You've got 1.5 million apartments benefiting from one form of rent regulation or another out of a total of three million. In other words, about half the apartment dwellers in New York City are benefiting, or so they think, from rent regulation. The Legislature is not going to make the slightest move towards deregulation unless we can educate the people who are not being subsidized to create a countervailing political force.

PETER SALINS: I'm not a political scientist, but let me suggest one thing. Nothing significant happens in a legislature without strong executive lead-

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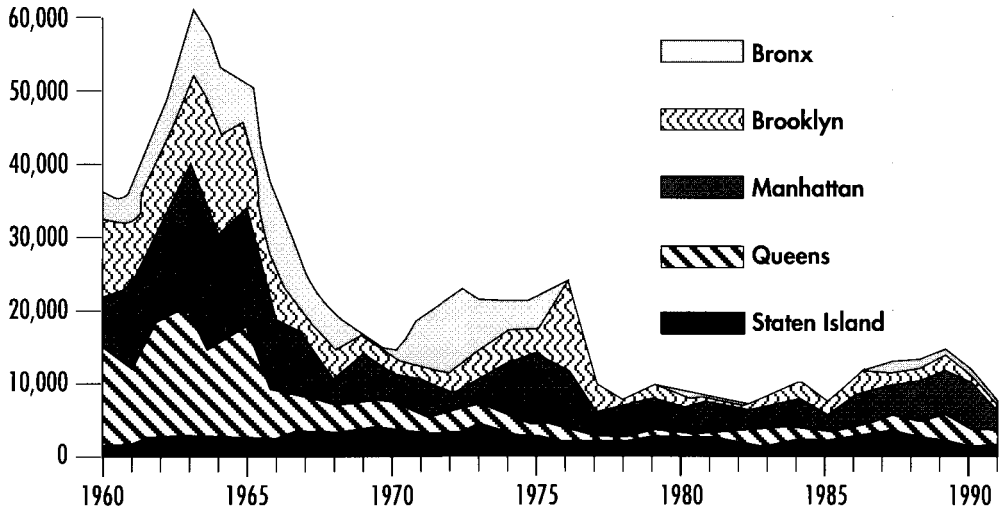
ership. When Nelson Rockefeller was governor of New York, he was able to bring about vacancy decontrol. If he had remained governor for another term, it might not have been repealed. The legislators will always take the path of least resistance. This situation will only change if we get a governor or a mayor who is convinced of the need to deregulate housing.

PETER SALINS: No. Ray Horton and Betsy Roistacher from the Citizens Budget Commission have argued that the city is losing tax revenue through its housing program, but my cost estimates don't include this additional cost.

STANLEY MOSES, Hunter College: To what extent could a new housing market under free competitive condition—like the one you envision—respond to the housing needs of the city's poor? What proportion of the population would be left out?

New Dwelling Units Completed in New York City 1960-1991



Source: NYC Dept. of City Planning and Dept. of Buildings

STEPHEN KAGANN, New York City Council President's Office: What does the city's involvement as a landlord and regulator cost the city treasury?

PETER SALINS: We are talking about at least a half-billion dollars a year to rehabilitate and operate the apartments the city has taken over for tax default. Some of that money comes from borrowed capital funds; some comes from federal grants that could have been used for other things. All in all, I would say the city's housing programs cost $1 billion a year—perhaps as much as a billion and a half.

STEPHEN KAGANN: Does that include property tax revenues?

PETER SALINS: The housing reformers of the New Deal era imagined that the rich and the middle class would live in unsubsidized housing and that the poor would be the beneficiaries of public intervention. But in New York, the middle class is the beneficiary of regulation. Henry Polakowski at Harvard studied the difference between market and regulated rents in all the city's neighborhoods. He found that in poor neighborhoods the difference was very small. So poor New Yorkers are by and large unsubsidized: Many do not qualify for public housing and they do not benefit from rent control.

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In other words, the current system does not benefit the poor. I would like to see a system in which no one in New York is very badly housed and I would hope some of the new housing construction would be built expressly for the poor or that older buildings would filter down in reasonably good condition to the poor as new housing becomes available to the rich and the middle class. To the extent the poor still cannot afford decent housing, I would use housing vouchers.

RONALD UNZ, Wall Street Analytics: Most people agree that the current housing situation is extremely bad and it would be very difficult to get reforms through the Legislature. But in the past two years the courts have started to focus on municipal policies that amount to taking property without due process of law. Zoning might be considered such a policy. If the Supreme Court or another high-level court struck down rent control, wouldn't that help to bring about the kinds of housing policies you have discussed today?

PETER SALINS: That would certainly help but it would still leave untouched New York's policies regarding subsidized housing, the unfair property-tax system, restrictive laws governing conversion to co-op or condominium ownership, and restrictive development regulations.

MARILYN MAMMANO, Department Of City Planning: Roughly 90 percent of the development in New York is currently being done on an as-of-right basis. What makes you think that freeing up the remaining 10 percent from discretionary review would greatly increase the production of new housing?

PETER SALINS: One reason so much building in the outer boroughs is done as-of-right is that the developers there haven't the patience or the money to fight the system. There are many areas of the city where you can't build housing at all, and others where the density restrictions are very tight. Many development projects might get under way were it not for restrictive zoning regulations. The fact that no one in the boroughs fights the zoning doesn't mean you can deduce that what little gets built is all that anyone wants to build.

HARLEY BROOKE-HITCHING, Equities Ltd.: I'm in private sector low-income housing. What rent control does to the racial structure of the city is horrifying. There are no middle-class black or Hispanic families moving into the Upper East Side because the rents of these apartments are so low that the white occupants do not move out.

PETER SALINS: The racial point you make is absolutely correct. Historically, minorities have been kept out of the best neighborhoods by simple prejudice. Moreover, the way you get the benefit of rent control is by staying in a good location for a very long time, and for a variety of reasons minorities have not been able to stay in one place for very long.

ROGER STARR, *City Journal:* A certain number of apartments in the big development on the Hudson River will, by rigging the rents, be made available for middle-income families who would otherwise be unable to pay the rent. In that fact we get a glimpse of everything that's wrong with New York's housing programs. First of all, we discount the significance of land value by asserting that we can put the middle class on expensive land no matter what that does to the city's tax rates. If there is really a problem in housing these "unfortunates," how will 12 percent of the apartments help ease the situation? The whole business epitomizes the folly of New York's sentimental view of housing and land value.

PETER SALINS: It is worse than you think. Eugenie Birch, what's the income limit for the people who will occupy these special apartments?

EUGENIE BIRCH: It is 165 percent of the median income.

PETER SALINS: There you have the New York housing paradigm in a nutshell: subsidized housing for people 65 percent better off than the average city household. If even the middle class is to be subsidized, who will be called on to pay market rents or taxes? ■

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The CITY and the POLITICS of the FUTURE

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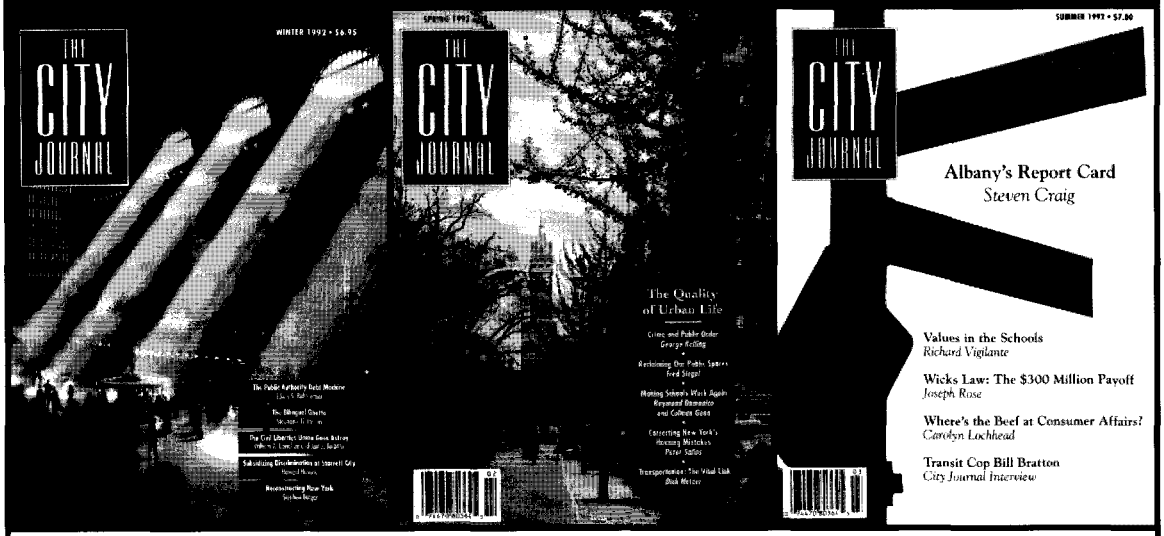

THE CITY JOURNAL is a call to arms for a new infusion of energy and creativity in charting the future of New York as it approaches the 21st century. It was founded on the belief that the wellsprings of prosperity and civic culture reside not in further regulation, taxation, subsidization, and political intransigence, but in the release of human ingenuity and enterprise.

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CHARLES MURRAY

Upon This Rock: The Miracle of a Black Church

Upon This Rock *(HarperCollins, $22.50) is a sourcebook for thinking about the black inner city.*

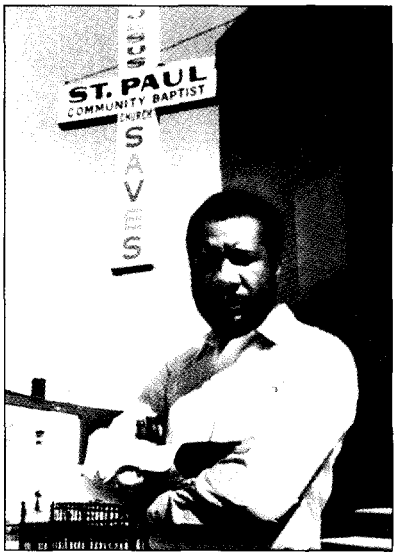
Not for understanding it, nor for solving its problems—this is more than one may reasonably ask of any book—but for thinking about what is going on, in a more realistic way.

At its simplest level, *Upon This Rock* is an account of a year in the life of the St. Paul Community Baptist Church in the slums of East Brooklyn. It opens with the Christmas service of 1989, and then describes the lives of the pastor, the Reverend Johnny Ray Youngblood, and a number of church members over the course of the next year. It is written novelistically, which makes for a highly readable book; the author, a white *New York Times* reporter named Samuel Freedman, is a natural storyteller.

The book has the feel of two other accounts of the black inner city written by whites, George Gilder's *Visible Man* and Scott Davis's *The World of Patience Gromes.* Obviously, the author is perceptive; just as obviously, he wants to be as nice as he can to real people who are probably going to read his words and recognize themselves. Voices that the same author might freely use for any other subject are impermissible for whites writing about blacks, especially any ironic voice that might be construed as mocking or patronizing. These conventions make for awfully polite prose. Occasionally, one wishes that Freedman would feel free to come right out and acknowledge that one of the characters was mean or stupid or had acted like a jerk.

These limitations notwithstanding, *Upon This Rock* is a valuable window onto a world as alien to the white intelligentsia as the other side of the moon: a black working-class church and the community that it constitutes. Freedman does a wonderful job of conveying the cadences of the preaching, the stamping, the jumping, the commotion, and emotion that are woven into a black church service of the style run by Johnny Ray Youngblood. But the book's greater contribution has nothing to do with the cultural characteristics of black churches, but rather with the peculiarities of daily life in East Brooklyn.

Take the question of illegitimacy, for example. In neighborhoods like the one served by St. Paul's, more than 80 percent of black children are now being born to single women. This phenomenon is at the core of the inner city's problems; its effects are pervasive. How do you raise a generation of young males to be responsible adults when they grow up not only without fathers of their own, but with no fathers in sight? The bleak answer seems to be "You don't." In *Upon This Rock*, readers who are familiar with the numbers and the sociological studies have a chance to observe the phenomenon in three dimensions, including all the human perplexities it entails at ground level. Two high school girls in the congregation are pregnant. Many in the church—parents engaged in trying to teach their own children how to behave—feel the girls should be stigmatized. Youngblood can't agree. It will be the babies, not the mothers, he feels, who will be the ultimate victims. So he baptizes the babies and publicly absolves the young mothers of blame. Did the Reverend do right or wrong? Right for the girls who got pregnant but wrong for the ones who did not? Right for the girls and wrong for the church?



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The Reverend Johnny Ray Youngblood in front of his East Brooklyn church.

There are wheels within wheels in this recounting. Youngblood himself long ago fathered an illegitimate son, now twenty years old, whom he ignored during the child's formative years. Even during the period covered by the book, Youngblood is struggling to acknowledge that the boy is in fact his son and to come to terms with his own past. Youngblood is also trying to come to terms with his own father, a man who in many ways lived a heroic life. Forced to drop out in the tenth

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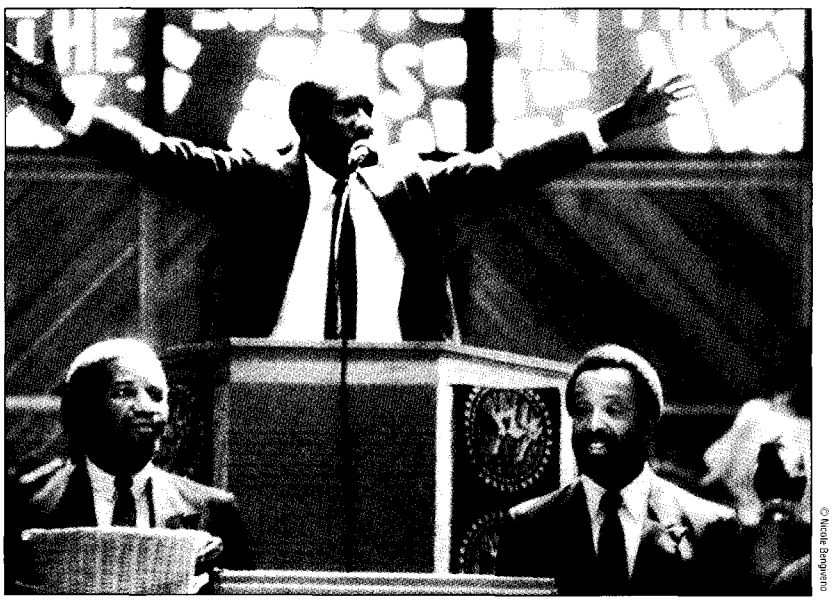
grade, the elder Youngblood worked at a New Orleans sugar refinery for 41 years, where he started by dragging 375-pound bags of sugar onto conveyor belts for 77 cents an hour, and ended as a forklift driver making $15 an hour.

The problem is, Youngblood has been estranged from his father since he was a small boy. So here we have a father who is part of the generation of black men who persevered in the face of systematic suppression by whites and managed to make a living for themselves, stay married to their wives, and live to see their children do better. The son is part of the black generation that came of age during the civil rights revolution and is now trying to hold together a black community besieged not by whites but by other blacks. Father and son have a very hard time getting along. The son and his son are barely managing to establish any relationship at all. And to top it all off, one of the ways Youngblood is trying to fortify St. Paul's is by drawing black men back into the church, using appeals to the importance of male authority that would make feminists gasp. As I say, *Upon This Rock* is a window, and it opens onto a very complicated tableau.

Put simply, it shows us the stuff of life. The members of St. Paul's congregation get jobs and lose them, fall in love and get into fights, have babies, perform acts of generosity they can't really afford and acts of mindless self-indulgence that tear their families apart. They marry and separate, send their kids to college or watch them get arrested, get strung out on drugs and get straight again, gather for celebrations and mourn together at wakes. All of this takes place within the ambit of the church—not church as spiritual shepherd, not church as part of the city's political power network (though St. Paul is both of those things), but church as public square and town hall in a place where the "real" public square and town hall have failed.

Of the dozens of stories bearing on this theme, one is especially illustrative. A ten-year-old girl accuses one of the ushers, an elderly man, of kissing and fondling her. The girl's mother wants the usher punished; the usher wants to prove his innocence. The one thing no one wants is to go to the authorities, for that way lies a swamp of agencies, delays, technicalities, and trauma for the girl and the old man alike. So the parties agree to arbitration by the church's Board of Elders. It is a long process, with a formal investigation and a deliberative decision, very like the normal judicial process except for one crucial difference: This is closer to the way that justice is supposed to work than the way it actually works in the court system. There are no interminable postponements. The investigation is thorough, not just a lick and a promise by an overworked prosecutor. The handful of witnesses are tracked down from among the hundreds at the service on the night in question. The elders, who act as the jury, grapple with their responsibility to be fair and impartial every bit as seriously as juries generally do, but also incorporate into their deliberations an intimate knowledge not just of this particular case but of the rich tapestry of context—personal, church, social—in which their decision must be taken. And they do a terrific job. There is a sense of system and fairness in their assessment of the facts, sensitivity and much common sense in their judgment.

The irony, of course, is that within the New York City court system, such a process would not only be unlikely, but actually illegal. The entire Board of Elders would immediately have been stricken from the jury list precisely because they knew the parties involved and because they



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had a direct interest in the life of the church where the alleged incident took place. Freedman calls this a case of "the racial self-governance known as 'black law.'" It is sad that he is led to look at it that way. Properly understood, it is Jeffersonian self-governance of a kind that was originally supposed to characterize the way this country functioned, the kind that de Tocqueville found so feisty and yeasty in the 1830s.

Yet St. Paul's and Johnny Ray Youngblood by no means try to go it alone in all things. On the contrary, there is a strong heritage of Saul Alinsky-like community organization in East Brooklyn, and St. Paul's strikes off in several directions at the same time—sometimes alone, sometimes in collaboration with an organization called the East Brooklyn Congregations. Occasionally it works, usually it doesn't. And always it is a struggle. "We are angry," Youngblood says at the end of another fruitless meeting. "If we were not church people, you might say we were mad as hell. At people who are all lips and no labor. At the bureaucrats who would diminish us into beggars. At the weavers who turn red tape into red cable. At those who attack our self-esteem. It must be known that we are the fairest fighters in town. We never ask for what cannot be done. We only ask for what is our due as citizens."

There is nothing new in this, nor is the frustration unique to blacks or to the inner city, as any white who has tried to deal with the New York City bureaucracy can confirm. But the contrast between what happens when St. Paul's does things on its own and what happens when it tries to collaborate with City Hall is a powerful one. The main point is not "success" or "failure" in traditional terms, but the outcomes for the congregation of St. Paul's measured against another criterion, the pursuit of happiness—once again, in a Jeffersonian sense. The success of a Johnny Ray Youngblood is not that he has cornered a bigger piece of the pie for East Brooklyn, but that he has enabled the people of his congregation to form the kind of community that provides the warmth, companionship, and mutual help in problem-solving that go a long way toward creating a deep sense of satisfaction in the life of any human being, not just blacks and not just people living in inner cities.

If it is not clear already, let it be understood that St. Paul's is a special case. It had 86 members when Youngblood took over in 1974; it now has 5,000. Its budget is in the millions of dollars. Freedman has written a book that celebrates a charismatic black preacher and the extraordinarily energetic and cohesive church he has nourished.

Perhaps there is no lesson to be learned when the potential supply of Johnny Ray Youngbloods is so limited. But the lesson I nonetheless take from Freedman's account is that the problems of the inner city will never be solved by programs that are designed, funded, organized, and administered by a centralized municipal bureaucracy in a city the size of New York. It is in the nature of such enterprises to be slow, inefficient, and institutionally moribund, with a rule for everything and a solution for nothing. Moreover, there are no cheap fixes whereby such centralized bureaucracies can earnestly pledge to do better and then set up "partnerships" with neighborhoods or make promises of "community control." The nation has a long history of such efforts extending back more than a quarter of a century, and they have invariably ended up as charades. The inner city will change for the better only when the St. Pauls flourish, and they will flourish only in an environment where people are expected and permitted to run their own communities and institutions. While *Upon This Rock* does not tell us how this might be done, it makes quite plain that this is what most needs doing.

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NICHOLAS KING

Letter from Tompkins Square Park

Billows of gold and green-black leaves against a pale blue sky, sun-lit grass, a gazebo and ball courts, brightly painted playgrounds, chess tables, a fountain dripping . . . Tompkins Square presents the face of a classic New York park.

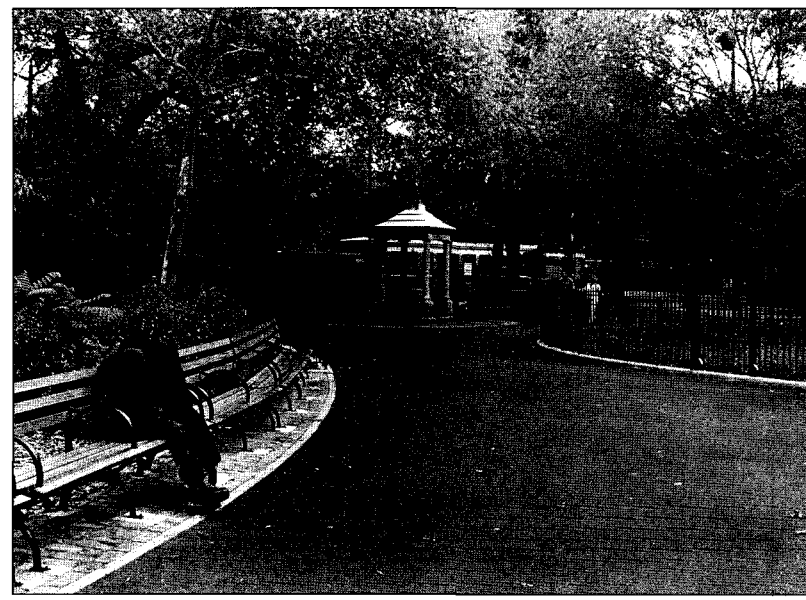
People tended their young children or played backgammon or walked their pedigreed dogs.

On a newly installed bench (with hooplike arms designed to make stretching out uncomfortable) sat a man in a leather-bound African hat producing soft, melancholy throbbing from a drum cradled in his arms. "This is a Third World toy," he explained, "just a can with leather at the ends." He wasn't homeless or a squatter, he said, and was thinking of heading south soon, to Florida "optimally."

He pointed to the park's southwest corner, carpeted with the first fall of leaves. "You wouldn't recognize it now, would you?" This was where the famous encampment of homeless had stood until the city charged in and removed it a year ago last August. Over a hundred homeless people had lived there in tents and orange crates for several years, tending their campfires and doing their laundry. The park received an expensive face lift and reopened in August with a midnight curfew, which is, so far, respected.

Tompkins Square, the East Village's ten-acre rectangular park, was built in the mid-nineteenth century and has always been a focus of city upheaval and protest. "Walked through most of the dangerous regions past Tompkins Square," noted that bon bourgeois and urban diarist George Templeton Strong in 1857, after the beginning of the fighting between the Bowery Boys and the Dead Rabbits, the archetypal New York street gangs. "Meetings are being held in the region of Avenue A with bonfire and gunpowder orations. . . . Shameful . . . that there should be a whole ward within which life and property have been notoriously unsafe for three days, which I cannot walk through tonight without serious risk." The name of the park, incidentally, comes from Daniel Tompkins, a powerful if forgotten figure of the early nineteenth century—mayor of the city, governor of the state, and even vice president under James Monroe.

Twenty years later things were no better. Eighteen eighty-seven was called the "Year of the Riots" as revolutionaries, including the next generation of German "Forty-Eighters" and even leftovers from the Paris Commune of 1870, milled around the Lower East Side. By mid-July, the police feared that the mob would attempt to set up a New York commune along similar lines, by taking over Manhattan, Brooklyn, and even Jersey City. It was all to start, rumor maintained, in Tompkins Square. So three regiments of National Guardsmen were barracked in nearby armories, and telephone lines were set up for instant communications among troops in the square and guard headquarters. Five thousand people came to listen to speeches in



© Steve Goldberg

The East Village's Tompkins Square Park after it reopened in August following an expensive face lift.

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English, French, and German, but to everyone's disappointment and greater relief, nothing more than a little jostling resulted.

By this time the Lower East Side had become the principal immigration center in the city. Originally the neighborhood around Tompkins Square and east of it had been German; but gradually the Germans gave way to Italians and Jews (the Jewish theater was long a fixture of lower Second Avenue). They in turn were replaced by Poles, Ukrainians, and other Eastern European minorities. Today, the Poles and Ukrainians are still fairly visible and new immigrants are still attracted to the enduring local churches and monuments—witness the solid, resolute mass of St. Nicholas Carpatho-Russian Orthodox Church facing the square's northwest corner. East of the square there has been a considerable Hispanic presence for many years.

Because of a topographical bulge, Manhattan bellies out several miles north of South Ferry, creating Avenues A, B, C, and D—the famous Alphabet City that is the heart of the East Village. Tompkins Square is its anchor. To the west, the park faces the gateway of St. Mark's Place. To the east the city stretches blankly away: Seventh, Eighth, Ninth, and Tenth streets burrow across Avenue B and then spread out like spent arroyos in the anonymity of Avenue C. It is a kind of zone of the interior, miles from the subway, in which people can take refuge and nurse their scars, even or especially the scars that never felt a wound.

In our time the East Village has carried on the role played by Greenwich Village up through the 1920s, one essential to the cultural traditions of New York: a place where the city will receive its romantic or political outcasts and give them shelter, amusement, and if possible, occupation.

The cheap lodging offered by Tompkins Square and the East Village in the 1970s and 1980s attracted such outcasts, and made them bedfellows with a resident population of drug dealers and junkies, prostitutes, beggars, and drifters. These were the days of the Pyramid Club, packed with Wall Street yuppies in jeans hoping the Mercedes was safe around the corner, or of Eight B.C., where the local intelligentsia relaxed in leather from head to toe—in other words, of night life as a fashionable zoo.

Thus East Village denizens became the "Slaves of New York," semi-celebrated in novel and movie. They dressed in tight black clothes and loud silver jewelry, their faces and hair often masks of makeup and dye. They strummed instruments, painted on walls, acted in street skits, and earned what it took to make it to the next day.

This also being our time, drugs and alcohol consumed a lot of their energy. They dedicated themselves to movements, fashionable and radical. They were enemies of injustice and of the law, too—an attitude that constitutes the raw material of violence and unrest. Their front-line foe was the gentrification, or more academically, the embourgeoisement, of the neighborhood. Brownstones on the north side of the square and elsewhere were going for high prices, and the sounds of hammering and sawing by fledgling householders were heard along the sidewalks. Garbage cans appeared in neat rows chained to lampposts, with the names of the owners painted on them. Pedigreed dogs, especially retrievers and exotic hounds, strained at the length of their roller leashes.

A prime target of hostility was the square's lone high-rise, a 16-story luxury condominium called the Christadora occupying the site of an old Ukrainian community center on the northeast corner of Eighth Street facing the park. Developed in the Eighties, Christadora apartments sold for as much as $450,000 to upscale professionals who came to enjoy the neighborhood life.

They soon realized that this life was being destroyed. Punk-rockers with their rowdy, noisy parties that lasted through the night, and drug dealers and scavengers who plied their trades by day, seemed to own the community. As for the park itself, the homeless entrenched themselves in tents and orange-crate shacks with campfires and laundry lines. In vacant lots nearby squatters were running small farms, with cock-a-doodling chickens, a goat or two, and patches of tomatoes and greens. The Christadora itself was a habitual target of scorn and insult. "Yuppie Bastards" and "Crush Wall Street"

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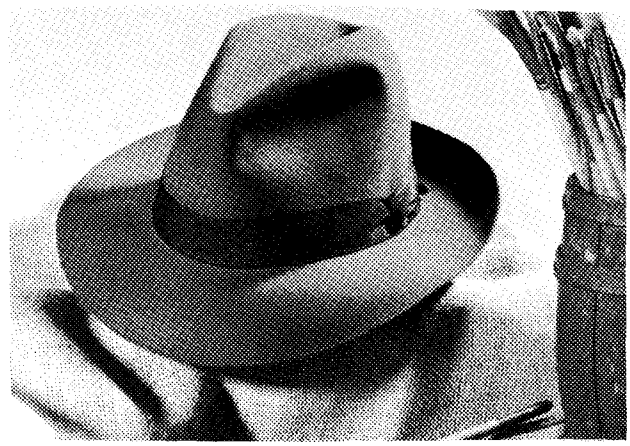
were typical of the slogans painted on its flanks. During sporadic outbreaks of rioting, rocks would crash into the lobby as tenants fled back to the safety of the elevators.

The big explosion came in August 1988. A park curfew, usually disregarded, was finally enforced by police, excluding everyone but the homeless who actually lived there. On a Saturday soon after, several hundred demonstrators gathered to protest and faced a phalanx of police backed up by mounted patrolmen. The demonstrators, surging forward, threw bottles, bricks, planks, and giant firecrackers, and the police responded vigorously with nightsticks. The demonstrators fell back and regrouped, and the two sides engaged again in smaller numbers. On it went for several hours. No one was killed or maimed, but 44 people, including a dozen police, were treated for injuries. Inevitably there were some bystanders involved, and the press immediately cried police brutality.

Police Commissioner Benjamin Ward bowed to the chorus in blaming "questionable" judgment and "premature" action on the part of his officers, a far cry from the police style of a century before. He asked for a special panel to review the incidents. "Everybody has an agenda about this place," he concluded lamely, as the press interviewed alleged victims and television stations broadcast snatches of the inevitable videotapes. The *New York Times* seized the opportunity to assemble a cast of local characters who protested their innocence.

"The idea was to bring people peacefully to the park," said Frank Morales, a squatter identified as a former Episcopal priest. Morales was one of the protesters arrested along with Jerry the Peddler and Johnny the Communist at an earlier demonstration. Although a distinct group very different from the homeless, the squatters, who live in the vacant lots or abandoned buildings around the square, nevertheless took up their cause.

Sporadic but nonviolent demonstrations on behalf of the homeless continued until August 1991 when the city decided that the park, littered by this time with garbage, old clothes, syringes, and dog waste, had to be purged and returned to its original condition and purpose. Police moved in and evicted the homeless—who had the option, admittedly uninviting, of moving to East Village municipal shelters—and closed the park for cleaning and restoration. The closing was criticized, but there was enough collective will to make it stick, even though Parks Commissioner Betsy Gotbaum was denounced and spat upon and her life was threatened. The September 1991 City Council election brought further political support for the restoration of the park. Antonio



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Pagan, who heads a nonprofit housing program and advocated restoration, narrowly defeated incumbent Miriam Friedlander, a diehard champion of the square's homeless.

The city was at last willing to take the position that its duty toward the large majority of its residents, and their right to use the park, outweighed the claims of the homeless, many of whom were drug abusers. "I could not see the connection," Gotbaum said, in a remark which may eventually harden into a principle, "between the housing shortage and the abuse of the park. It is an outrage that anyone in this country should be homeless, but there is nothing progressive or kind about giving park land to those unfortunate enough to be without homes."

The park was reopened last August after a $2.1 million renovation. At the ceremony, Mayor Dinkins was heckled as he promised to do everything possible to keep the park from once more becoming an encampment for the dispossessed. Far from representing the homeless, Gotbaum declared, the protesters were nothing more than "foul-mouthed rabble." And so the pendulum swings back to George Templeton Strong.

The sounds of nighttime revelry are rarely heard now around Tompkins Square. It is as though a group of strolling players had folded their tents after a tumultuous season and left the stage, as so many players like them have done before. If you hadn't seen the neighborhood in its more frenzied days, you would find little about its present atmosphere to distinguish it from neighborhoods in other parts of the city.

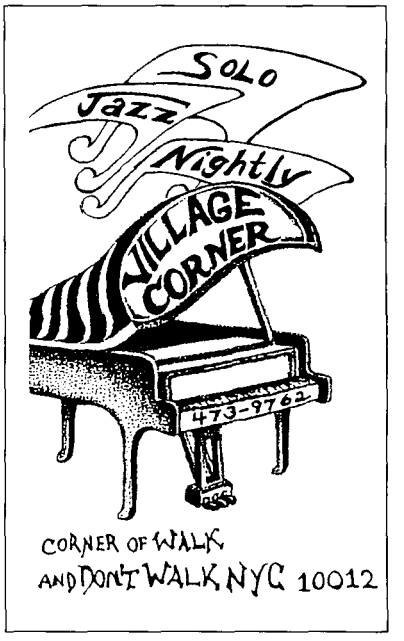
The Pyramid stands apart as an out-and-out gay bar with a leatherish clientele. And most of the exotic places, like Save The Robots, open so late that they have become after-hours joints. The Holiday Cafe on St. Mark's Place is a typical Tompkins Square bar; it could date from 1962 or even from 1952, with its semi-circular wooden seating arrangements, its backboard mirrors and row of bottles, its port and starboard lanterns, and beyond, a room of booths for privacy. The customers—fairly young, mostly blue collar, black and white—drink beer and watch football on the corner television set.

Television football is a standard feature of most watering places, but not of a surviving yuppie establishment nearby, which features a long grey brick wall behind the bar and a chastely framed work permit hung prominently, almost teasingly, above it. Here, on a recent visit, the beverage of choice was beer, too, with an added fashion message: late-night martini cocktails in stemmed glasses for the ladies. At the far end of the bar a pair of steps rose to a slightly higher level, where a miniature pool table stood bathed in pink light. Silhouetted against it, a young woman wearing a black miniskirt and black slouch hat leaned against the door jamb.

As you travel east on Sixth and Seventh streets from Avenue A, all is calm. A potential customer heads toward an all-night bodega. Street lights burn brightly. A police patrol car noses silently up to a stoplight. Drug action on the street has declined considerably, thanks to an increase in these patrols—a fact acknowledged by Community Board reports. In fact, a strong police presence, however unobtrusive, is an essential part of the new Tompkins Square. It may be that a generally stronger police presence will be one of the primary achievements of the Dinkins administration.

Brownstone stoops are occupied, as they used to be, by people gossiping through the evening. One elderly couple is even sitting in the front yard of an apartment house. In the next, less tidy block of Avenue C, a large rat glistens as it scuttles diagonally across the street, startling a young man who jumps into the air as it passes boldly beneath him. "Hot damn," he exclaims.

I mount some steps to admire a refinished doorway, but start back quickly when the doors open suddenly and a trim, middle-aged woman with coils of dark yellow hair dashes out. I fear she may think I'm a burglar on reconnaissance. "I was just admiring the woodwork here," I begin lamely, but she brushes the words aside in a rich Southern voice. "Isn't it a wonderful house? I moved three months ago from Charleston. I just love it here." This is the kind of person New Yorkers think is wrong in the head.



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FRANCIS MORRONE

Classical New York

New York City is the greatest heap of architectural styles on earth. The entire history of building art in the West is recapitulated in this city's Greek temples, Roman baths, Romanesque churches, Gothic cathedrals, Tudor manor houses, Tuscan villas, French Renaissance hotels particulier, and Georgian terraces.

The Choragic Monument of Lysicrates, the butter tower of Rouen Cathedral, and the Mausoleum of Halicarnassus are pitched thirty, fifty, even seventy stories in the air. The streets of New York are a delirium of finials, cornices, metopes, aedicules, caryatids, rosettes, ogives, pediments, pilasters, and quoins.

Since the Italian Renaissance (beginning roughly a century before Henry Hudson sailed up the river that was later to bear his name), the classical has proven the most resilient of building styles, managing, in one guise or another, to dominate Western architecture till the end of World War II. New York itself has, from its beginning, been a classical city. From Colonial through Federal, Greek Revival, Italianate, and Queen Anne to the full-blown Beaux-Arts of the so-called American Renaissance, New York has had as much claim as Paris, Rome, Vienna, or St. Petersburg to be called a classical city.

We are inclined to think that this classical New York ceased to be added to sometime around 1950, when the long real estate stagnation caused by depression and war had subsided and the city was swept by its first, undoubtedly exhilarating wave of modern building eschewing all reference to the architecture of the past. But if you think classical New York has died, think again. It has only been hibernating. If history teaches us anything, it is that classical architecture has a remarkable power to resurrect itself. In fact, there is reason to believe that a full-fledged classical revival may take place once our present real estate malaise finally gives way to renewed building activity.

Already, in the office building boom of the 1980s, architects who formerly shied away from using classical elements began to employ them, sometimes in the most extravagant fashion, in reaction to what people widely perceived to be the cold, sterile quality of much modern architecture. The loose name given to the new, classicizing stylistic tendencies was "postmodernism." Philip Johnson, one of the earliest apostles of the modern movement, and John Burgee designed the AT&T Headquarters on Madison Avenue with granite stonework, a high-arched entryway, and most conspicuous of all, a broken-pediment "Chippendale" top. It was completed in 1984. Cesar Pelli's World Financial Center (1985-88) and Skidmore, Owings & Merrill's Worldwide Plaza (1989) are deeply and self-consciously indebted, particularly in their interior public spaces, to the grand tradition of classical skyscraper design that flourished from the 1890s to the 1930s.

While, for a variety of reasons, postmodernism did not give New York a major, truly classical building, classicism is busting out all over the rest of the world. In Britain, for instance, Prince Charles has been leading a crusade to revive classicism as the standard style for public buildings. In the United States, the surest harbinger of an imminent full-blown classical revival is to be found in Chicago's Loop. The new Harold Washington Library Center, designed by Hammond, Beeby and Babka, is a flawed, but nonetheless bravura, exercise in unapologetic classical architecture on the heretofore long-dormant scale of a monumental public building. Its architect, Thomas Hall Beeby, is no less than dean of architecture at Yale, and arguably as influential a figure as

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©The Frick Collection, New York, photography by Henry Hope Reed

John Barrington Bayley's 1977 addition to the Frick Collection, New York's finest classical building since the 1930s.

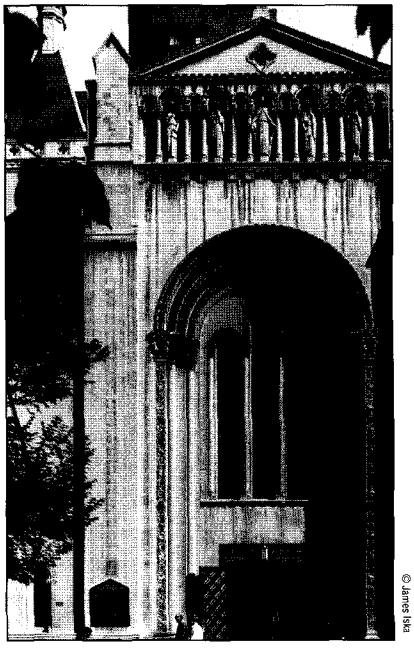
there is in contemporary American architecture.

In the meantime, the classical has not ceased altogether to breathe in New York. Some of my favorite buildings to show people when I walk them around New York are the handful of classical buildings that have been built in the last forty years. Most New Yorkers who pass these buildings every day are startled to learn how recent they are.

The first building dates from 1954: Frederick Rhinelander King's addition to the Council on Foreign Relations, on the southwest corner of Park Avenue and Sixty-eighth Street. The original building, constructed in 1920, was designed by William Adams Delano as the house of Harold I. Pratt, son of Charles Pratt, kerosene magnate and founder of Brooklyn's Pratt Institute. It is a simple, elegant neo-Georgian box, with a lovely series of arched windows deeply incised in the rusticated base on the east and north faces of the building. The addition, on Sixty-eighth Street, continues this window series but is set slightly back from the lot line, creating a graceful transition from the large corner building to the more modestly scaled rowhouses extending west from it—a move worthy of a great classical city.

By 1959, the year of Frank Lloyd Wright's Guggenheim Museum, and following ten years of intensive building in the modern style, New Yorkers were inured to the glass-and-steel aesthetic. Residents of Murray Hill must have been surprised, then, when an authentic-looking Gothic church rose on the southeast corner of Park Avenue and Thirty-eighth Street. A Gothic church? In 1959? Today, it looks as if it has been there for a century. The Roman Catholic Church of Our Saviour was designed by Paul W. Reilly. Hidden in the tower, where Gothic churches had bells, is air-conditioning equipment. Unfortunately, the overall attractiveness of the building is marred by the curiously lifeless quality of the carving—most noticeably in the figures around the entrance.

In 1965, the year Eero Saarinen's CBS Building on Sixth Avenue was completed, Paul Mellon, the billionaire philanthropist, art collector, and enthusiastic admirer of classical architecture, erected one of the few private houses built in Manhattan since World War II. H. Page Cross, a distinguished designer of classical country houses including Paul Mellon's on Cape Cod, designed a French Provincial house at 125 East Seventieth Street between Park and Lexington avenues. Cut off from the street by a high wall, the cream-colored stucco house, its facade dominated by shuttered French windows with curved iron balcony railings, rises four stories to what is surely the only true dormered-mansard roof built in Manhattan in half a century. The two-story east wing is similarly topped "anachronistically," by a balustrade.



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Murray Hill's Gothic Church of Our Saviour, erected in 1959.

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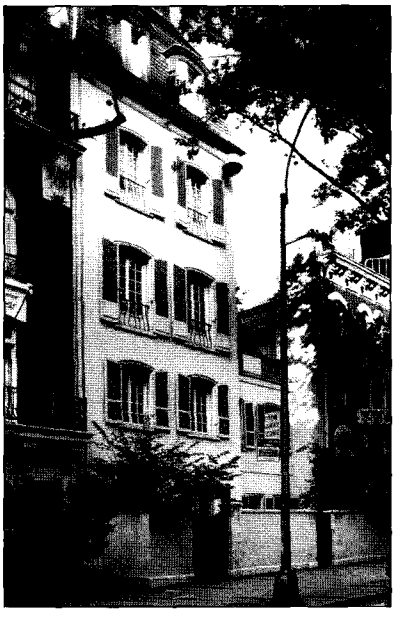
Two additional examples of recent classical buildings lay to rest any suspicions that the craftsmanship necessary to build in the classical mode has become obsolete. In 1966 the Susan B. Wagner Wing was added to Gracie Mansion, in Carl Schurz Park at East Eighty-eighth Street. The merchant Archibald Gracie built his elegant Federal-style country house in 1799 on the East River, well north of what were then the city limits. At this house Gracie entertained such luminaries as Alexander Hamilton, the Marquis de Lafayette, President John Quincy Adams, and King Louis Philippe of France. The city bought the house in 1887 and from 1924 to 1930 it housed the Museum of the City of New York. In 1942, the new house became the official mayoral residence. By 1964 the need for new reception and office space was pressing. Mott B. Schmidt, aged 75, a renowned designer of classical houses, and John Barrington Bayley, architect for the New York City Landmarks Preservation Commission, were given the daunting task of adding to one of the city's oldest and best-loved landmarks. The two-story Wagner Wing replicates the clapboard siding, attic balustrade, and shuttered windows of the original. But the new wing's glory is its canopied porch, a delicate composition framed by pairs of slender fluted columns with Composite capitals. Of the five orders of classical architecture, the Composite, a combination of Ionic and Corinthian most commonly used in baroque Rome, is rarest in New York. One would think that Composite columns, being the most elaborate, would be the least likely choice in a time when craftsmanship was obsolete, yet there they are. In addition, the porch has an arched entrance with a spidery fanlight, and is entered from either side by graceful curved stairways with wrought-iron railings. The porch was modeled on the one at the Lyman house in Waltham, Massachusetts, designed by Samuel McIntyre and built in 1793. (The beautiful fireplace in the ballroom of the Wagner Wing was originally in the landmark house at 7 State Street, childhood home of Elizabeth Bayley Seton, America's first Roman Catholic saint, and an ancestor of the same John Barrington Bayley who codesigned the Wagner Wing.)



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Paul Mellon's French Provincial house on East 70th between Park and Lexington avenues, built in 1965.

Eleven years later, in 1977, the year Citicorp Center was completed, John Barrington Bayley designed the most elaborate—indeed, the best—classical building in New York since the 1930s: the addition to the Frick Collection on Seventieth Street just east of Fifth Avenue. Bayley's addition is based on Jules Hardouin-Mansart's Grand Trianon at Versailles, built in the late seventeenth century. The one-story addition, like the original, is built of Indiana limestone, with Ionic pilasters and entablature beautifully executed by a new generation of craftsmen at the Indiana Limestone Company. The elaborate bronzework throughout the addition was the work of Arthur Ward, of P.E. Guerin and Company, located in Greenwich Village. An integral part of the addition's design is a formal garden, visible from within the museum through floor-to-ceiling arched windows, and from Seventieth Street through Louis Quinze gates that were originally placed at the house's entrance drive. The lush garden, designed by the English landscape architect Russell Page, features a large pool with water

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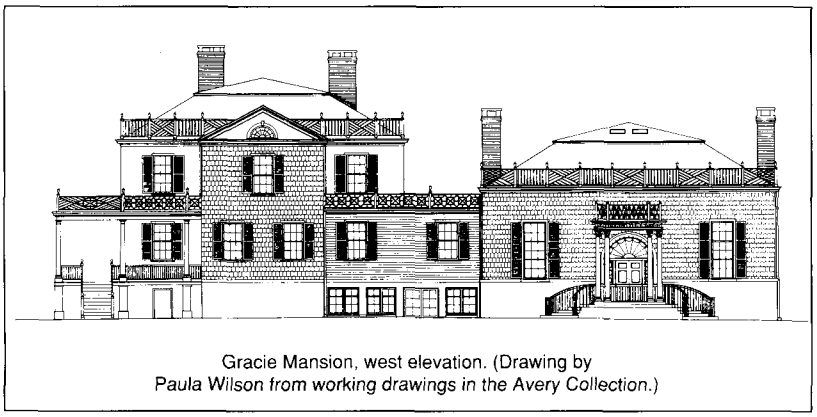

From The Architecture of Mott B. Schmidt by Mark Alan Hewitt © 1990 Rizzoli International Publications

Gracie Mansion, west elevation. (Drawing by Paula Wilson from working drawings in the Avery Collection.)

The Susan B. Wagner Wing on the right was added to Gracie Mansion, the mayor's residence on the East River, in 1966.

lilies. Below the addition and the garden are two stories of exhibition and storage space together with educational facilities.

The additions to Gracie Mansion and the Frick were not the only classical designs for New York buildings conceived by John Barrington Bayley. In response to the huge sums of federal money pouring into cities for urban renewal projects in the 1950s and 1960s, Bayley created a series of visionary schemes for the classical makeover of such perennially problematic sites as Columbus Circle, Roosevelt Island, and the Hunter's Point waterfront. He even designed a classical housing project for Harlem. At that time, of course, Bayley's visionary drawings seemed as fantastic as the works of Piranesi; only a handful of "eccentrics" like Paul Mellon or the trustees of the Frick collection were willing to commission even the most modest classical projects. Thirty or forty years later, Bayley's schemes would have been taken much more seriously.

There is, finally, the question of whether we can afford to build in traditional styles. After all, one of the reasons for the rise of modern architecture was supposed to be its cost effectiveness. Modernism, however, has not proven itself to be any more cost effective than other styles. The factors influencing building costs are varied and complex. Materials and craftsmanship are only a small part of the equation. The cost of the Frick addition was $2.85 million, which is no more per square foot than many of the heralded museum additions of recent years. All other factors being equal, the cost of a typical classical building will be marginally more expensive than the cost of a typical modern building. The "smart" office buildings of today, for example, are very expensive to build, and the materials and craftsmanship necessary for a high-level classical design will add, at most, two or three percent to the total cost of the project.

These things can hardly be predicted, of course, but I would not be surprised if the classical were to dominate building in New York when the city's economy recovers. The present recession may then be remembered as the period when all the young architects found time to learn the orders.

EDITH WHARTON

A Little Girl's New York

Edith Wharton (1862-1937), whose novels The Age of Innocence *and* The House of Mirth *rank with the most perceptive works of American fiction, was raised on New York's Fifth Avenue. The avenue was not, in those days, a magic mile of luxurious retail shopping, but the thoroughfare on which the leaders of the city's social and business elite resided in their one-family brownstone houses. Seen through the double filter of a child's eyes and the adult writer's subsequent sophistication, these recollections of old New York first appeared in* Harper's Magazine *in 1938, a year after the author's death. For the modern reader it serves as an intimate record of a New York as different from the contemporary metropolis as King Arthur's Camelot or Plato's Athens.*

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In those days the little "brownstone" houses . . . marched up Fifth Avenue . . . in an almost unbroken procession from Washington Square to the Central Park. Between them there passed up and down, in a leisurely double line, every variety of horse-drawn vehicle, from Mrs. Belmont's or Mrs. Astor's C-spring barouche to a shabby little covered cart drawn by a discouraged old horse and labeled in large letters: "Universal Exterminator"—which suggested collecting souls for the Dies Irae, but in reality designated a patent appliance for ridding kitchens of cockroaches.

The little brownstone houses, all with Dutch "stoops" (the five or six steps leading to the front door), and all not more than three stories high, marched Parkward in an orderly procession, like a young ladies' boarding school taking its daily exercise. The façades varied in width from twenty to thirty feet, and here and there, but rarely, the line was broken by a brick house with brownstone trimmings; but otherwise they were all so much alike that one could understand how easy it would be for a dinner guest to go to the wrong house—as once befell a timid young girl of eighteen, to whom a vulgar nouveau-riche hostess revealed her mistake, turning her out carriageless into the snow—a horrid adventure which was always used to point the rule that one must never allow a guest, even totally unknown, to discover such a mistake, but must immediately include him or her in the party. Imagine the danger of entertaining gangsters to which such social rules would expose the modern hostess! But I am probably the last person to remember that Arcadian code of hospitality.

Those were the days—à propos of Fifth Avenue—when my mother used to say: "Society is completely changed nowadays. When I was first married we knew everyone who kept a carriage."

And this tempts me to another digression, sending me forward to my seventeenth year, when there suddenly appeared in Fifth Avenue a very small canary-yellow brougham with dark trimmings, drawn by a big high-stepping bay and driven by a coachman who matched the brougham in size and the high-stepper in style. In this discreet yet brilliant equipage one just caught a glimpse of a lady whom I faintly remember as dark-haired, quietly dressed, and enchantingly pale, with a hatbrim lined with cherry color, which shed a lovely glow on her cheeks. It was an apparition surpassing in elegance and mystery any that Fifth Avenue had ever seen; but when our dark-blue brougham encountered the yellow one, and I cried: "Oh, Mamma, look—what a smart carriage! Do you know the lady?" I was hurriedly drawn back with the stern order not to stare at strange people and to remember that whenever our carriage passed the yellow one I was to turn my head away and look out of the other window.

For the lady in the canary-colored carriage was New York's first fashionable hetaera. Her name and history were known in all the clubs, and the name of her proud proprietor was no secret in New York drawing-rooms. I may add that, being an obedient daughter, I always did look out of the other window when the forbidden brougham passed; but that one and only glimpse of the loveliness within it peopled my imagination with images of enchantment from Broceliande and Shalott (we were all deep in the "Idylls of the King"), and from the Cornwall of Yseult. She was, in short, sweet unsuspecting creature, my first doorway to romance, destined to become for me successively Guinevere and Francesca da Rimini, Beatrix Esmond and the Dame aux Camélias. And in the impoverished emotional atmosphere of old New York such a glimpse was like the mirage of palm trees in the desert.

I have often sighed, in looking back at my childhood, to think how pitiful a provision was made for the life of the imagination behind those uniform brownstone façades, and then have concluded that since, for reasons which escape us, the creative mind thrives best on a reduced diet, I probably had the fare best suited to me. But this is not to say that the average well-to-do New Yorker of my childhood was not starved for a sight of the high gods. Beauty, passion, and danger were automatically excluded from his life (for the men were almost as starved as the

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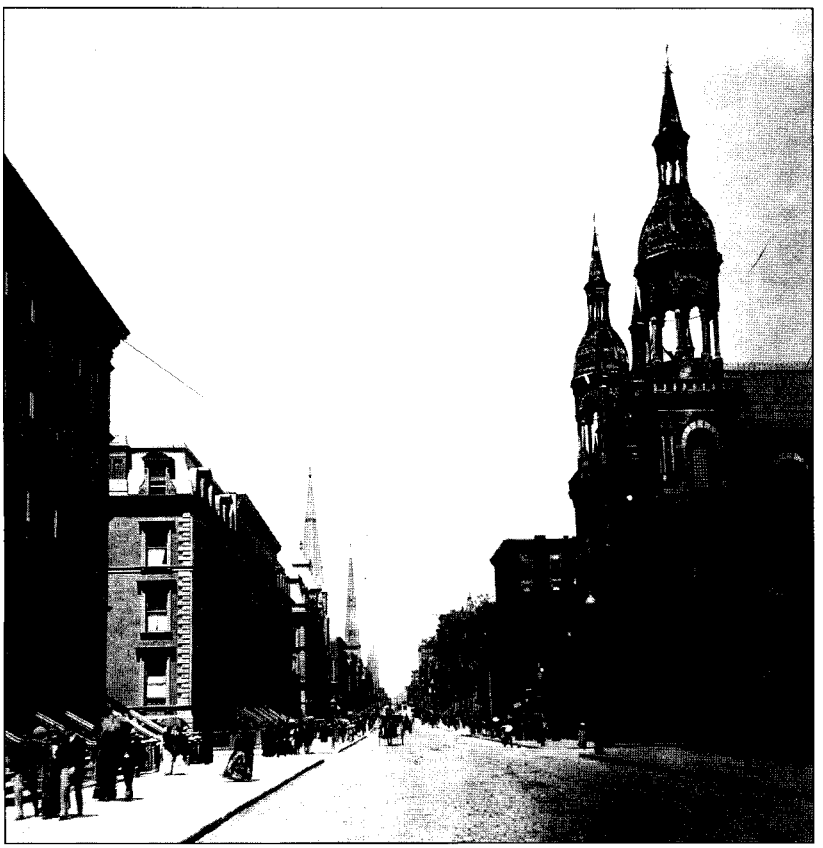

Courtesy of Seymour Durst

Looking north on Fifth Avenue from 42nd Street, circa 1889.

women); and the average human being deprived of air from the heights is likely to produce other lives equally starved—which was what happened in old New York, where the tepid sameness of the moral atmosphere resulted in a prolonged immaturity of mind. . . .

I have said that the little brown houses now and then gave way to a more important façade, sometimes of their own chocolate hue, but with occasional pleasing alternatives in brick. Many successive Fifth Avenues have since been erected on the site of the one I first knew, and it is hard to remember that none of the "new" millionaire houses which, ten or fifteen years later were to invade that restless thoroughfare (and all of which long ago joined the earlier layers of ruins), had been dreamed of by the boldest innovator. Even the old families, who were subsequently to join the newcomers in transforming Fifth Avenue into a street of would-be palaces, were still content with plain wide-fronted houses, mostly built in the Forties or Fifties. In those simple days one could count on one's two hands the New York houses with ballrooms; to the best of my recollection, only the Goelets, Astors, Butler Duncans, Belmonts, Schermerhorns, and Mason Joneses possessed these frivolous appendages; though a few years later, by the time I made my first curtsy at the "Assemblies," several rich couples, the Mortons, Waterburys, Coleman Draytons, and Francklyns among them, had added ballrooms to their smart establishments. . . .

In the smaller houses a heavy linen called "crash," laid on the floors of two adjoining drawing-rooms, and gilt chairs hired from "old Brown" (the Grace Church sexton, who so oddly combined ecclesiastical and worldly duties) created temporary ballrooms for small dances; but the big balls of the season (from January to Lent) were held at Delmonico's, then, if I am not mistaken, at the corner of Twenty-eighth Street and Fifth Avenue.

The Assemblies were the most important of these big balls—if the word "big" as now understood could be applied to any social event in our old New York! There were, I think, three Assemblies in the winter, presided over by a committee of ladies who delegated three of their number to receive the guests at the ballroom door. The evening always opened with a quadrille, in which the ladies of the committee and others designated by them took part; and there followed other square dances, waltzes and polkas, which went on until the announcement of supper. A succulent repast of canvasback ducks, terrapin, foie gras, and the best champagnes was served at small tables below stairs, in what was then New York's only fashionable restaurant; after which we reascended to the ballroom (in a shaky little lift) to begin the complicated maneuvers of the cotillion.

The "Thursday Evening Dances," much smaller and more exclusive, were managed by a committee of the younger married women—and how many young and

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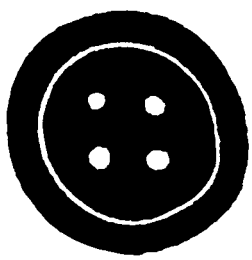
pretty ones there were in our little society! I cannot, oddly enough, remember where these dances were held—and who is left, I wonder, to refresh my memory? There was no Sherry's restaurant as yet, and no Waldorf-Astoria, or any kind of modern hotel with a suite for entertaining; yet I am fairly sure we did not meet at "Del's" for the "Thursday Evenings."

The most conspicuous architectural break in the brownstone procession occurred where its march ended, at the awkwardly shaped entrance to the Central Park. Two of my father's cousins, Mrs. Mason Jones and Mrs. Colford Jones, bought up the last two blocks on the east side of Fifth Avenue, facing the so-called "Plaza" at the Park gates, and built thereon their houses and their children's houses; a bold move which surprised and scandalized society. Fifty-seventh Street was then a desert, and ball-goers anxiously wondered whether even the ubiquitous "Brown coupés" destined to carry home belated dancers would risk themselves so far afield. But old Mrs. Mason Jones and her submissive cousin laughed at such apprehensions, and presently there rose before our astonished eyes a block of pale-greenish limestone houses (almost uglier than the brownstone ones) for the Colford Jones cousins, adjoining which our audacious Aunt Mary, who had known life at the Court of the Tuileries, erected her own white marble residence and a row of smaller dwellings of the same marble to lodge her progeny. The Jones blocks were so revolutionary that I doubt whether any subsequent architectural upheavals along that historic thoroughfare have produced a greater impression. In our little provincial town (without electricity, telephones, taxis, or cab-stands) it had seemed inconceivable that houses or habits should ever change; whereas by the time the new millionaires arrived with their palaces in their pockets Fifth Avenue had become cosmopolitan, and was prepared for anything. . . .

The lives led behind the brownstone fronts were, with few exceptions, as monotonous as their architecture. European travel was growing more frequent, though the annual holiday abroad did not become general until I grew up. In the brownstone era, when one crossed the Atlantic it was for a longer stay; and the returned traveler arrived with a train of luggage too often heavy with works of art and "antiques." Our mothers, not always aware of their aesthetic limitations, seldom restricted their purchases to lace and fans; it was almost a point of honor to bring back an "Old Master" or two and a few monsters in the way of modern Venetian furniture. For the traveler of moderate means, who could not soar to Salvator Rosa, Paul Potter, or Carlo Dolci (prime favorites of the day), facsimiles were turned out by the million by the industrious copyists of Florence, Rome, or Amsterdam; and seldom did the well-to-do New Yorker land from a European tour unaccompanied by a Mary Magdalen cloaked in carefully waved hair, or a swarthy group of plumed and gaitered gamblers doing a young innocent out of his last sequin. One of these "awful warnings," a Domenichino, I think, darkened the walls of our dining room, and Mary Magdalen, minutely reproduced on copper, graced the drawing-room table (which was of Louis Philippe buhl, with ornate brass heads at the angles). . . .

Most of the little brownstone houses in which the Salvator Rosas and Domenichinos gloomed so incongruously on friendly drawing-room walls still possessed the surviving fragments of "a gentleman's library"—that is, the collection of good books, well written, well printed, well bound, with which the aboriginal New Yorkers had beguiled their long and dimly lit leisure. In a world of little music and no painting, there was time to read; and I grieve to think of the fate of the treasures to be found in the "libraries" of my childhood—which still belonged to gentlemen, though no longer, as a rule, to readers. Where have they gone, I wonder, all those good books, so inevitably scattered in a country without entail or primogeniture? The rarest, no doubt, have long since been captured by dealers and resold, at soaring prices, to the bibliophiles of two continents, and unexpurgated Hogarths splendidly bound in crushed Levant are no longer outspread on the nursery



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floor on rainy days, as they used to be for the delectation of my little Rhinelander cousins and myself. (I may add that, though Hogarth was accessible to infants, *Leaves of Grass*, then just beginning to circulate among the most advanced intellectuals, was kept under lock and key, and brought out, like tobacco, only in the absence of "the ladies," to whom the name of Walt Whitman was unmentionable, if not utterly unknown.)

In our New York house, a full-blown specimen of Second Empire decoration, the creation of the fashionable French upholsterer, Marcotte, the books were easily accommodated in a small room on the ground floor which my father used as his study. This room was lined with low bookcases where, behind glass doors, languished the younger son's meager portion of a fine old family library. The walls were hung with a handsome wallpaper imitating the green damask of the curtains, and as the Walter Scott tradition still lingered, and there was felt to be some obscure (perhaps Faustian) relation between the Middle Ages and culture, this sixteen-foot-square room in a New York house was furnished with a huge oak mantelpiece sustained by vizored knights, who repeated themselves at the angles of a monumental writing table, where I imagine little writing was done except the desperate calculations over which I seem to see my poor father always bent, in the vain effort to squeeze my mother's expenditure into his narrowing income. . . .

We had returned when I was ten years old from a long sojourn in Europe, so that the New York from which I received my most vivid impressions was only that tiny fraction of a big city which came within the survey of a much governessed and guarded little girl—hardly less of a little girl when she "came out" (at seventeen) than when she first arrived on the scene, at ten.

Perhaps the best way of recapturing the atmosphere of my little corner of the metropolis is to try to remember what our principle interests were-I say "our" because, being virtually an only child, since my big brothers had long since gone forth into the world, I shared either directly or indirectly in most of the household goings-on.

My father and mother entertained a great deal and dined out a great deal; but in these diversions I shared only to the extent of hanging over the stair-rail to see the guests sweeping up to our drawing-room or, conversely, my mother sweeping down to her carriage, resplendent in train, aigrette, and opera cloak. But though my parents were much invited, and extremely hospitable, the tempo of New York society was so moderate that not infrequently they remained at home in the evening. After-dinner visits were still customary, and on these occasions old family friends would drop in, ceremoniously arrayed in white gloves and white tie, with a tall hat, always carried up to the drawing-room and placed on the floor beside the chair of the caller—who, in due course, was regaled with the ten o'clock cup of tea which followed heavy repast at seven-thirty. On these occasions the lonely little girl that I was remained in the drawing-room later than her usual bedtime, and the kindly whiskered gentlemen encouraged her to join in the mild talk. It was all very simple and friendly, and the conversation ranged safely from Langdons, Van Rensselaers, and Lydigs to Riveses, Duers, and Schermerhorns, with an occasional allusion to the Opera (which there was some talk of transplanting from the old Academy of Music to a "real" Opera House, like Convent Garden or the Scala), or to Mrs. Scott-Siddons's readings from Shakespeare, or Aunt Mary Jones's evening receptions, or my Uncle Fred Rhinelander's ambitious dream of a Museum of Art in the Central Park, or cousin John King's difficulty in housing in the exiguous quarters of the New York Historical Society a rather burdensome collection of pictures bequeathed to it by an eccentric young man whose family one did not wish to offend—a collection which Berenson, visiting it many years later, found to be replete with treasures, both French and Italian.

But the events in which I took

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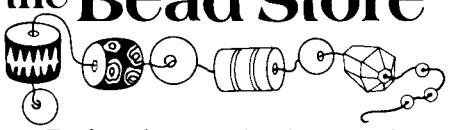

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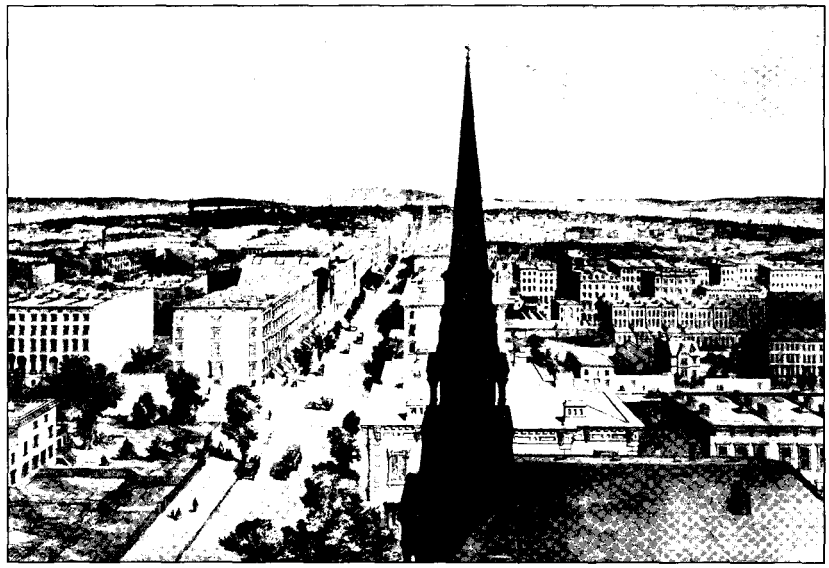
an active part were going to church—and going to the theater. I venture to group them together because, looking back across the blurred expanse of a long life, I see them standing up side by side, like summits catching the light when all else is in shadow. Going to church on Sunday mornings was, I fear, no more than an unescapable family duty; but in the afternoon my father and I used to return alone together to the second service. Calvary Church, at the corner of Gramercy Park, was our parish church, and probably even in that day of hideous religious edifices, few less aesthetically pleasing could have been found. The service was "low," the music indifferent, and the fuliginous chancel window of the Crucifixion a horror to alienate any imaginative mind from all Episcopal forms of ritual; but the Rector, the Reverend Dr. Washburn, was a man of great learning, and possessed of a singularly beautiful voice—and I fear it was chiefly to hear Dr. Washburn read the Evening Lessons that my father and I were so regular in our devotions. Certainly it is to Dr. Washburn that I owe the discovery of the matchless beauty of English seventeenth-century prose; and the organ-roll of Isaiah, Job, and above all, of the lament of David over the dead Absalom, always come back to me in the accents of that voice, of which I can only say that it was worthy to interpret the English Bible.

The other great emotion of my childhood was connected with a theater. . . . Most of the acting I saw in those early days in New York was really much better than any I have seen since. The principal theaters were, in fact, still in possession of good English companies, of whom the elders had played together for years, and preserved and handed on the great tradition of well-trained repertory companies, versus the evil "star" system which was so soon to crowd them out of business.



A view of New York City looking south along Fifth Avenue from 37th Street in 1859. The Brick Presbyterian Church, the spire of which dominates the scene, was demolished in 1938.

At Wallack's Theatre, still ruled by the deeply dyed and undoubtedly absurd Lester Wallack, there were such first-rate actors as old Mrs. Ponisi, Beckett, Harry Montague, and Ada Dyas; and when they deserted the classic repertory (Sheridan, Goldsmith, etc.) for the current drama, the average play they gave was about as good as the same type of play now acted by one or more out-of-focus stars with a fringe of obscure satellites.

But our most exciting evenings came when what the Germans call "guest-players" arrived from London, Berlin, or Rome with good repertory companies. Theater-going, for me, was in fact largely a matter of listening to voices, and never shall I forget the rapture of first hearing

And gentlemen in England
now abed
Shall think themselves accursed
they were not here,

in George Rignold's vibrant baritone, when he brought *Henry V* to New York. Again and again my father took me to see (or, I might better say, to hear) Rignold in *Henry V*; and it is through listening to him that I discovered the inexhaustible flexibility, the endless metrical resources, of English blank verse. To hear the great Agincourt speech, where the clarion call of mighty names—

Harry the King, Bedford and
Exeter, Warwick and Talbot,
Salisbury and Gloucester,

is succeeded by the impetuous sweep of

Be in their flowing cups freshly
remembered,

and that in turn by the low still music of

We few, we happy few, we band
of brothers—

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was to be initiated once for all into some of the divinest possibilities of English prosody. . . .

In the way of other spectacles New York did not as yet provide much. There was in fact only the old Academy of Music, where Campanini, in his prime, warbled to an audience still innocently following the eighteenth-century tradition that the Opera was a social occasion, invented to stimulate conversation; but my recollection of those performances is not clear, for, by the time I was judged old enough to be taken to them, the new Opera House was inaugurated, and with it came Wagner, and with Wagner a cultivated and highly musical German audience in the stalls, which made short work of the chatter in the boxes. I well remember the astonishment with which we learned that it was "bad form" to talk during the acts, and the almost immediate compliance of the box audience with this new rule of politeness, which thereafter was broken only by two or three thick-skinned newcomers in the social world.

Apart from the Opera, the only popular entertainments I can recall were Barnum's three-ring circus (a sort of modern ocean liner before the letter—and Moody and Sankey's revivalist meetings. I group the two in no spirit of disrespect to the latter, but because both were new and sensational, and both took place in the old Madison Square Garden, at that time New York's only large auditorium, where prize fights and circuses placidly alternated with religious revivals, without any sign of public disapproval. But I must add that, sincere as no doubt the protagonists were, there was a theatrical element in their call to religion which, in those pre-Eddyan days, deeply offended the taste of many people; and certainly, among the throngs frequenting their meetings many avowedly went for the sake of Sankey's singing rather than of his companion's familiar chats with the Almighty. Though America has always been the chosen field of sensational religious performances, the New York of my childhood was still averse to any sort of pious exhibitionism; but as I was never allowed to assist at the Moody and Sankey meetings, my impression of them is gathered entirely from the comments of my father's friends, from whom I fear Saint Francis of Assisi and Savonarola would have received small encouragement. My mother, at any rate, gave none to the revivalists; and my father and I had to content ourselves with the decorous beauty of Evening Prayer at Calvary Church.

From all this it will be seen that the New York of those days was a place in which external events were few and unexciting, and little girls had mostly to

"be happy and building at home."

"Yet" (as Stevenson's poem continues)

Yet as I saw it, I see it again,
The kirk and the palace, the
ships and the men,
And as long as I live, and
where'er I may be,
I'll always remember my town
by the sea—

a town full indeed for me of palaces and ships, though the palaces came out of the "Tempest," "Endymion," and "Kubla Khan," and the ships were anchored on the schoolroom floor, ready to spread their dream-sails to all the winds of my imagination. ■

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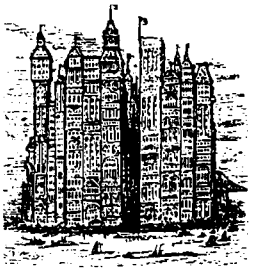

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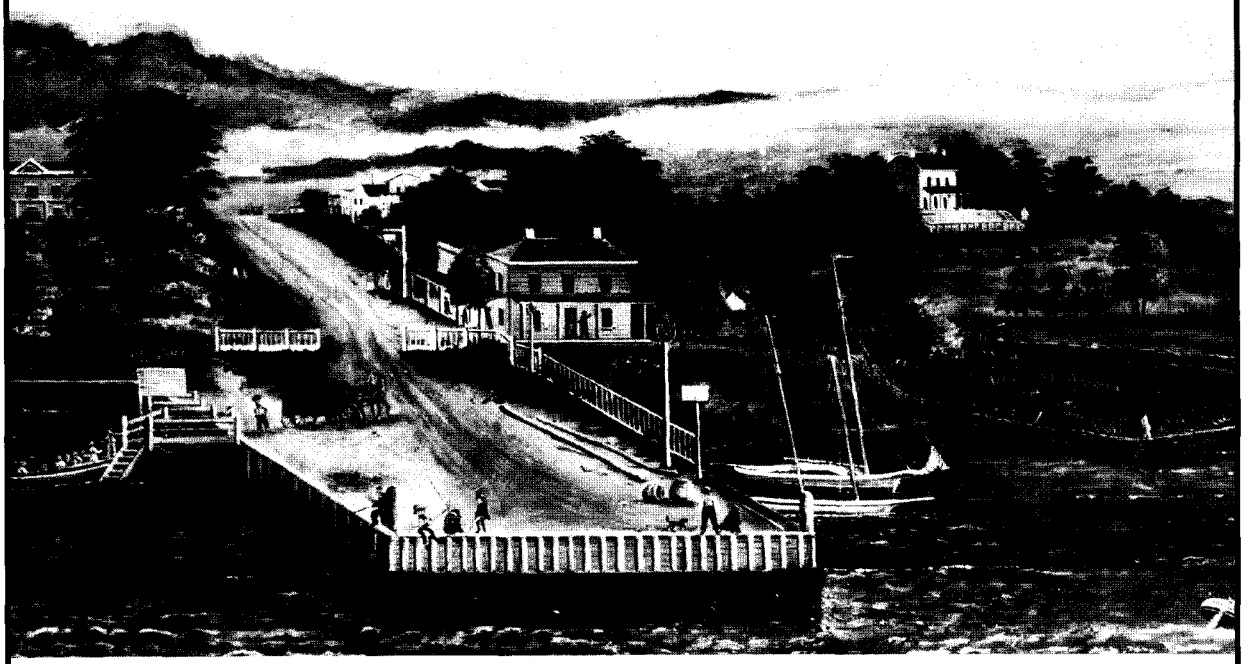

The East 61st Street Dock, anonymous, c. 1855, museum collection

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ADAM P. GLICK

Signs of the Times

Go to Central Park at around 80th Street and Fifth Avenue and your vista will include a chain-link fence, some overturned sod, a large mound of dirt, and occasionally a backhoe or two.

In the middle of this debris sits a sign announcing that what you are actually witnessing is something called the Southwestern Metropolitan Museum Landscape Restoration. Fair enough. But if you read on you will be affronted by a list of names: David Dinkins, Mayor; Ruth Messinger, Manhattan Borough President; Betsy Gotbaum, Parks Commissioner, etc.

Huh?

Did any of the aforementioned move one mound of earth, plant one tree, or spend even a few minutes operating any heavy machinery? Are we to guess that these are the individuals who actually paid for the work?

The answer doesn't require much thought. Why should incumbents be able to employ the public's tax dollars towards their reelection campaigns?

Good question.

Years ago, this wasn't the case. When the government decided to do some building, a sign usually went up announcing, YOUR TAX DOLLARS AT WORK. The advantage of these simple announcements was that the same signs could be ferried from site to site as work was completed. They weren't "administration specific." These signs, however, were employed quite some while back. Today, our tax dollars are more likely to be found vacationing in the Caribbean, sitting in a lounge chair with a piña colada at their side. (Or, more accurately, paying a sanitation worker eight hours' wages for four hours' work.)

The cost of replacing the aforementioned signs with each administration is nothing compared to the abuse of power involved. And the most egregious offender is none other than Gotham's very own salad-bar-patron liberator, consumer czar Mark Green.

The City of New York insists that certain businesses be licensed by the Department of Consumer Affairs. Fine. Additionally, it has decided that these shops should be forced to post their licenses prominently at their places of business. Not so fine. It has also gone even further and required that each one of these signs list the name of Mark Green in a type larger than that of the businesses' license numbers. Crazy. The last person to require that signs carrying his name be emblazoned on every shop was Pharaoh Ramses II (or maybe Mussolini). Anyhow, why is Mr. Green, who has never built a pyramid, or managed to make the subways run on time, entitled to the free publicity?

There is a way out of this mess, and it doesn't even require legislation. Each company doing business in New York, when presenting a bill to its customers should, next to the line item for city sales tax, mention David Dinkins, Mayor. Next to the state sales tax, Mario Cuomo, Governor. Garages, salad bars, etc., could post a sign that says, "This business is licensed by the Department of Consumer Affairs. Our license cost X. We have passed that cost on to you. Mark Green, Commissioner." Manhattan real estate tax bills could list the taxes owed, comma, Ruth Messinger, Manhattan Borough President. Etc.

This way New Yorkers will have a daily reminder of whose hands are in their pockets. If the elected officials of this city insist on taking credit for spending the public's dollars, then let them also take credit for collecting them.

Jazz musicians have a saying: "Silence swings." What this means is that the notes a musician chooses to avoid are as important as those he plays. Until the officials of our city realize this, and begin to take credit for projects they choose to avoid, taxes they lower, and licensing fees and onerous local laws they eliminate, the noise emanating from city hall will only get louder. Discretion is the better part of valor, but it's also the better part of governing. ■

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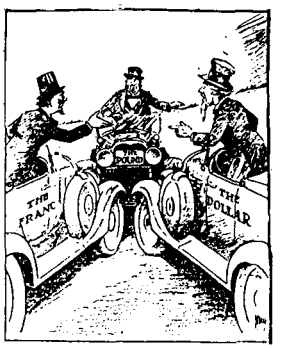
Second Thoughts

Myths and Morals of US Economic History

Edited by DONALD N. McCLOSKEY, *University of Iowa*

This book examines the past as a way of preparing for the future. McCloskey has brought together leading economic historians who show that commonly accepted perceptions of our economic past can be wrong and, therefore, misleading. The contributors (including Robert Higgs, Julian and Rita Simon, Elyce Rotella, Terry Anderson, Barry Eichengreen, Price Fishback, Susan Phillips and J. Richard Zecher) address a wide range of issues: Teapot Dome scandal, banking regulation, "new" immigration problems, AT&T and deregulation, Third World development policies, the role of "big" government, technological innovation, and property rights. Each essay explores the role of government policy in the outcome of events. Written in nontechnical prose, this book is an essential reference for those interested in our economic past.



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